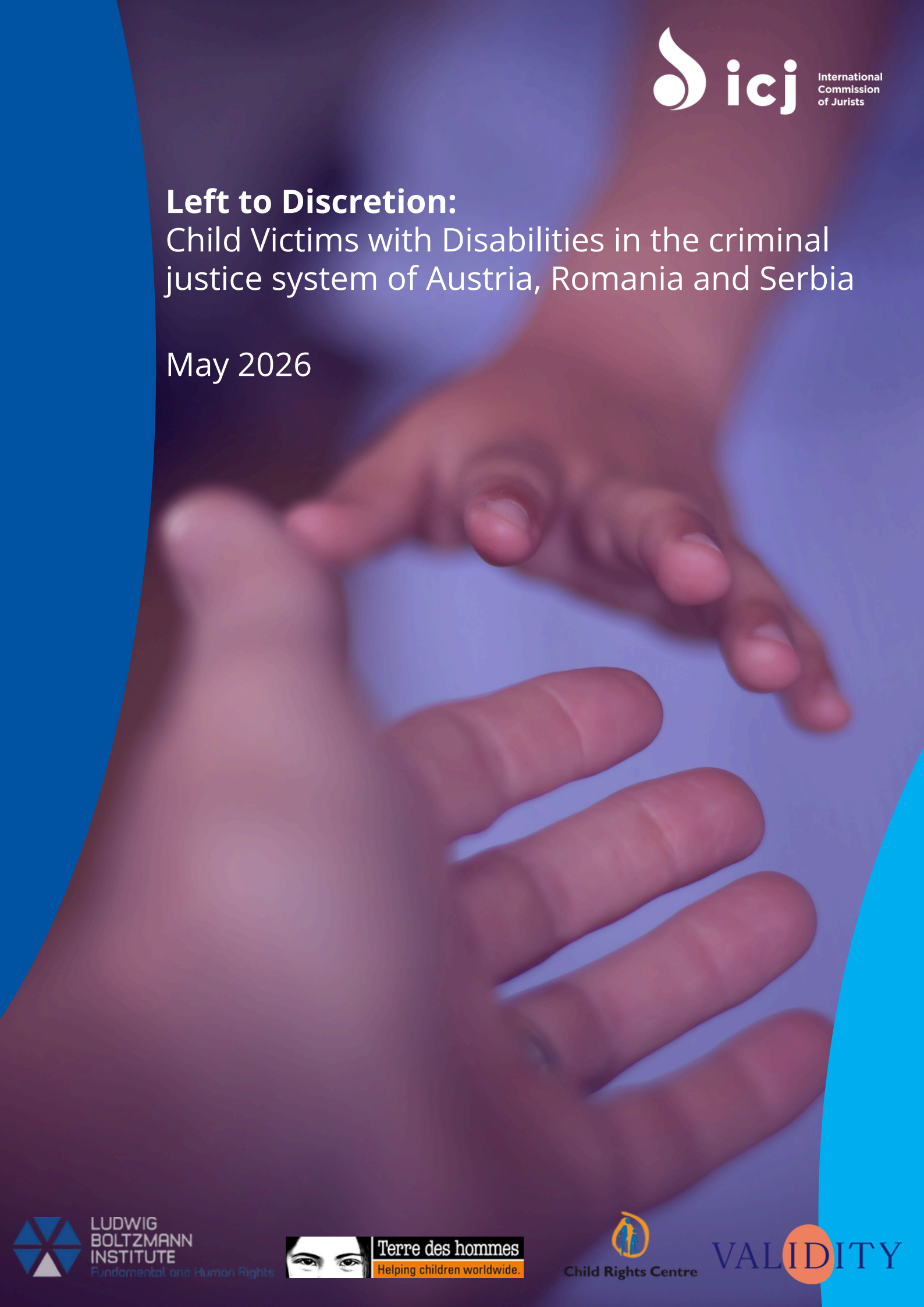


Left to Discretion:
Child Victims with Disabilities in the criminal justice system of Austria, Romania and Serbia

May 2026

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Table of Contents

I. KEY THEMATIC ISSUES AND COMPARATIVE FINDINGS 4

1. Access to Justice for Child Victims with Disabilities 4

1.1. International law and standards 4

1.1.1. Equal treatment before the law, legal capacity and equal participation 4

1.1.2. Right to be heard 6

1.1.3. Training and awareness building of professionals 8

1.2. Implementation in practice 10

1.2.1. Equal treatment before the law, legal capacity and equal participation 10

1.2.2. Right to be heard 12

1.2.3. Training and awareness building of professionals 14

2. Procedural safeguards for child victims with disabilities at all stages of the administration of justice 16

2.1. International law and standards 16

2.1.1. Right to procedural accommodations 16

2.1.2. Process for individual assessment for adoption of procedural accommodations 19

2.1.3. Intermediaries and support persons 20

2.1.4. Procedural adjustments and modifications 22

2.2. Implementation in practice 23

2.2.1. Right to procedural accommodations 23

2.2.2. Process for individual assessment for adoption of procedural accommodations 24

2.2.3. Independent intermediaries (or facilitators) 26

2.2.4. Right to be accompanied by a support person 29

2.2.5. Procedural adjustments and modifications 30

3. Right to information and communication in accessible formats 32

3.1. International law and standards 32

3.1.1. Right to information and access to it for children and caregivers 32

3.1.2. Communication support 34

3.1.3. Right to interpretation and translation 35

3.2. Implementation in Practice 36

3.2.1. Right to information and access to it for children and caregivers 36

3.2.2. Communication support 38

3.2.3. Right to interpretation and translation 40

4. Right of access to a lawyer and to legal aid 42

4.1. International law and standards 42

4.2. Implementation in practice 44
5. Accessibility of court facilities, information and services 46
5.1. International law and standards 46
5.2. Implementation in practice 47
II. CONCLUSIONS 49

Under international human rights law, children are independent rights holders entitled to protection, participation and effective access to justice.[1] The United Nations (UN) Convention on the Rights of the Child (CRC) provides for the right of children to be heard in all matters affecting them, to be protected from all forms of violence, and to have their best interests treated as a primary consideration in judicial and administrative proceedings.[2] For children who come into contact with the criminal justice system these guarantees are particularly important, given the emotional, psychological and physical harm they may have experienced.[3] Child-sensitive criminal proceedings, grounded in procedural safeguards and appropriate support measures, are essential to prevent secondary victimization and to ensure fair and effective justice outcomes.[4]

Evidence from around the world demonstrates that children with disabilities are significantly more likely to experience violence than children without disabilities.[5] These risks are driven by multiple factors, including entrenched social prejudices and stigmas, social isolation, and the increased emotional, physical or economic demands associated with certain disabilities.[6] When children with disabilities come into contact with the criminal justice system, especially as victims or witnesses, they typically face multiple and cumulative barriers that may undermine their access to justice and meaningful participation. These barriers are reinforced by social norms that fail to recognize children as rights-holders and by discriminatory attitudes related to disability.[7]

A central obstacle facing children in contact with the justice system is the lack of accessible, timely and comprehensible information about their rights, available remedies and legal procedures, which leaves many children and their families disempowered and unable to navigate the justice system effectively.[8] Barriers to disclosure and reporting further restrict access to justice, including fear of not being believed, being misunderstood or blamed, concerns about retaliation, stigma and shame, particularly in cases of sexual violence, and reliance on adults whose support may be unavailable, conflicted, or otherwise inappropriate to the child's needs.[9] For children with disabilities, internalized stigma and prior experiences of marginalization, both within the justice system and in wider social contexts, may further serve to discourage disclosure.[10] These challenges are compounded by systemic shortcomings, including weak coordination between justice, child protection, health, education and social services, physical inaccessibility of justice institutions, economic barriers such as legal costs, and inaccessible procedural frameworks.[11]

Against this background, procedural accommodations and coordinated professional support are essential to safeguard the rights of child victims with disabilities in criminal proceedings. Such measures include accessible information, communication support, interpretation and translation, legal representation, intermediary assistance and child-friendly environments adapted to individual needs. The obligation to provide for such safeguards is contained in international human rights law and standards, notably the CRC and the Convention on the Rights of Persons with Disabilities (CRPD), both of which require States Parties to ensure equal access to justice, procedural accommodation and effective participation for children with disabilities.[12]

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[1] United Nations (UN) General Assembly, Convention on the Rights of the Child (CRC), UN Doc. A/RES/44/25, (1989).
[2] See CRC, arts. 3, 12, 19, 39.
[3] Bureau for Children's Rights, 2025. *The Rights of Child Victims and Witnesses of Crime: A compilation of selected provisions drawn from international and regional instrument*, p. 3.
[4] Martina Prpic and Eftychia Constantinou, European Parliamentary Research Service, 2025. *Child-Friendly Justice*, p. 4.
[5] Paulo Sérgio Pinheiro, 2006. Save the Children, *World Report on Violence Against Children* (Sérgio Pinheiro, Report on Violence Against Children, 2006) (2006) p. 13; UNICEF, 2022. *Children with disabilities: Violence*.
[6] Sérgio Pinheiro, Report on Violence Against Children, 2006, p. 68.
[7] UNICEF, 2020. *Breaking Down Barriers: Equitable access to justice for children with disabilities*, p. 8.
[8] Grace Agcaoili, UNICEF, 2025. *Technical Brief on Access to Justice for Child Victims and Witnesses* (Agcaoili, Technical Brief) (2025) p. 6.
[9] Agcaoili, Technical Brief (2025), p. 6.
[10] *Ibid,* p. 6.
[11] UNICEF, 2020. *Breaking Down Barriers: Equitable access to justice for children with disabilities*, pp. 8-9.
[12] UN General Assembly, Convention on the Rights of Persons with Disabilities (CRPD), UN Doc. A/RES/61/106 (2007), arts. 7, 12, 13.

This report is based in significant measure on the information contained in national reports developed by ICJ partners: the Ludwig Boltzmann Institute of Fundamental and Human Rights (Austria),[13] Terre des Hommes (Romania),[14] and the Child Rights Centre (Serbia)[15]. The national reports consist of empirical research, including interviews and focus groups with children, young adults and professionals working within the justice system, as well as legal analysis. The research focused on how procedural accommodations and professional support are provided in practice, and on the extent to which existing systems respond to the specific needs of child victims with disabilities.

By examining legal and administrative frameworks alongside lived experiences and professional practice, this report identifies common challenges, gaps and emerging practices across the three countries – Austria, Romania and Serbia. It combines an overview of applicable international and regional legal standards, including UN instruments, Council of Europe standards and European Union (EU) law, with an analysis of national laws and their implementation in practice. The report examines how law and institutional practices address core procedural rights. Areas covered include: access to information; communication support; interpretation and translation; access to a lawyer and legal aid; accessibility of court facilities; and procedural accommodations. The report shows to how disability-inclusive and child-centred justice systems function in practice by highlighting key challenges, gaps and inconsistencies in the treatment of child victims with disabilities in criminal proceedings. It also examines how existing law and institutional practices operate across different national contexts, and by provides recommendations for legal reform to strengthen protection and participation of these children.

I. KEY THEMATIC ISSUES AND COMPARATIVE FINDINGS

1. Access to Justice for Child Victims with Disabilities

1.1. International law and standards

All persons have the right, on an equal basis with others, to equality before the law, and equal protection under the law.[16] For children with disabilities who are victims of crime, this includes the right to fair and impartial proceedings, meaningful participation, and the right to be heard. States must ensure that persons with disabilities, including children with disabilities, can exercise these rights in practice by providing for the necessary procedural accommodations, as well as age- and gender-appropriate support.[17] Together with broader international human rights law and standards, the CRPD provides a clear normative framework requiring States to ensure that persons with disabilities, including child victims of crime, can participate effectively and meaningfully in justice processes on an equal basis with others.

1.1.1. Equal treatment before the law, legal capacity and equal participation

International human rights law establishes equal recognition before the law and legal capacity as foundational preconditions for access to justice, including for children with disabilities.[18] The CRPD provides that persons with disabilities have the right to recognition everywhere as persons before the law and enjoy legal capacity on an equal basis with others in all aspects of life.[19] States Parties

[13] Ludwig Boltzmann Institute of Fundamental and Human Rights (LBI-GMR), 2025. *ENSURE: National Report Austria* (LBI-GMR, National Report Austria (2025)).
[14] Terre des Hommes (TdH), 2025. *ENSURE: National research report on procedural accommodations for child victims and offenders with disabilities within the Romanian justice system* (TdH, National Report Romania (2025)).
[15] Child Rights Centre (CRiC), 2025. *National Report: Serbia Child Rights Centre* (CRiC, National Report Serbia (2025)).
[16] UN General Assembly, International Covenant on Civil and Political Rights (ICCPR), UN Doc. A/RES/2200A (XXI) (1966), art. 26.
[17] Office of High Commissioner for Human Rights (OHCHR), Special Rapporteur on the rights of persons with disabilities, 2020. *International Principles and Guidelines on Access to Justice for Persons with Disabilities* (Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020)), p. 6.
[18] ICCPR, arts. 16, 26; CRPD, arts. 5, 12.
[19] CRPD, art. 12.

are required to take all appropriate measures to provide access to the support persons with disabilities may require in exercising their legal capacity on an equal basis. This must be ensured through the development and implementation of appropriate and effective safeguards.[20]

The Committee on the Rights of Persons with Disabilities (CRPD Committee), is the supervisory body established under the CRPD and, among its other competencies, provides an authoritative interpretation of the Convention's provisions. The CRPD Committee has observed that persons with disabilities often do not enjoy their rights on an equal basis with others because of, among other factors, "deprivation of legal capacity, forced institutionalization, exclusion from general education, pervasive negative stereotypes, prejudices, and lack of access to employment."[21]

Other human rights treaties establish the obligations to ensure that individuals are not subject to discrimination and are equal before the law, which describes the entitlement of persons to equal treatment by and in the application of the law. This obligation means that in carrying out the administration of justice, the judiciary and law enforcement officers must not discriminate against persons with disabilities.[22]

All persons with disabilities have a right to legal capacity or the ability to make legally effective decisions on an equal basis with others.[23] They should not be denied access to justice or participation in any justice processes and procedures on the basis of actual or perceived disability.[24] The general presumption must be, in each individual case, that all persons are capable of making, and therefore being responsible for, their own decisions and actions.[25]

States must ensure that the legal capacity of persons with disabilities is recognized at all levels of the criminal justice system, without discrimination.[26] States have an obligation under the CRPD to "[e]nsure that constructs such as "cognitive incapacity" and "mental incapacity", as determined, for instance, by functional or mental status assessments that are common in most legal systems, are not used to restrict the right to legal capacity."[27]

Deprivation of legal capacity, whether formally mandated or resulting from informal or longstanding legal practices, processes and procedures, necessarily leads to exclusion from judicial and other legal processes. It has pervasive effects on the right of persons with disabilities to a fair trial in accordance with due process of law.[28] The CRPD Committee has condemned limitations that are often imposed on the rights of persons with disabilities, such as deprivation of the right to be heard in person, pursue adversarial proceedings, give evidence or challenge witnesses.[29] Where "instruments for protection" exist concerning the rights of persons with disabilities they must not be "based on removing legal capacity or otherwise hindering the access of persons with disabilities to justice."[30]

Consistent with obligations under the CRPD, the existence of a disability, whether based on a physical, mental, sensory or psychosocial impairment, must not "[…] be grounds for denying legal capacity and the imposition of 'substitute decision-making' – that is, a decision made by another

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[20] CRPD, art. 12.
[21] United Nations Committee on the Rights of Persons with Disabilities (CRPD Committee), General Comment No. 6, On equality and non-discrimination, CRPD/C/GC/6 (CRPD Committee, GC No. 6), 26 April 2018, para. 8.
[22] CRPD Committee, GC No. 6, para. 14.
[23] CRPD, art. 12(2).
[24] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, (2020) principle 1.
[25] CRPD Committee, General Comment No. 1, Article 12: Equal recognition before the law, CRPD/C/GC/1 (CRPD Committee, GC No.1), 19 May 2014, para. 15.
[26] CRPD, art. 12(3).
[27] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, principle 1(2)(c).
[28] OHCHR, Right to access to justice under article 13 of the Convention on the Rights of Persons with Disabilities, A/HRC/37/25 (OHCHR, Report on Access to Justice Under Article 13 CRPD), 27 December 2017, para. 34.
[29] *Ibid*, para. 123.
[30] CRPD Committee, GC No. 6, para. 49(c).

person in the place of the person with a disability (not appointed by the person, done against his or her will, and not based on his or her own 'will and preferences')."[31]

States are required under the CRPD to provide the support necessary to enable persons with disabilities to make decisions that have legal effect.[32] Such support measures "must respect the rights, will and preferences of persons with disabilities and must never amount to substitute decision-making."[33]

While this general principle is clearly established, the CRPD Committee has noted that State practice often remains inconsistent with these obligations. In many States, "where a person is considered to have impaired decision-making skills, often because of a cognitive or psychosocial disability, his or her legal capacity to make a particular decision is consequently removed."[34]

Ensuring the formal recognition of legal capacity for persons with disabilities is not, by itself, sufficient to guarantee equal participation in the justice process. Everyone, including victims of crime, has a right to equal access to proceedings in the administration of justice, without discrimination.[35] For persons with disabilities to exercise their right to access to justice effectively, they must be able to participate on an equal basis with others in the justice system as a whole.[36] This participation takes many forms and includes persons with disabilities assuming roles such as claimants, victims or survivors, defendants, judges, jurors and lawyers, as part of the justice system that contributes to good governance.[37]

The principles of non-discrimination and equality before the law apply fully to children with disabilities, taking due account of their age and evolving capacities. However, the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime affirm that age must not constitute a barrier to a child's right to participate fully in the justice process.[38] Every child should be treated as a capable witness, and testimony must not be presumed unreliable solely because of the child's age, provided that the child is able to give intelligible and credible evidence, with or without communication aids and appropriate assistance.[39]

1.1.2. Right to be heard

States have an obligation to respect and protect the child's right to be heard.[40] This requires that every child be given the opportunity and the means to express their views and that those views be given due weight in decisions-making processes that affect them. This right is also affirmed in the Charter of Fundamental Rights of the European Union (EU Charter).[41] The EU Strategy on the Rights

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[31] CRPD Committee, GC No. 1, para. 9.
[32] *Ibid*, para. 16.
[33] CRPD Committee, GC No.1, para. 17.
[34] *Ibid*, para. 15.
[35] Universal Declaration on Human Rights, adopted by the UN General Assembly, Resolution 217 A, 10 December 1948, art. 8; ICCPR, arts. 2, 3, 14(1), 16; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly as part of Resolution 34/180, 18 December 1979, arts. 2, 15; International Convention on the Elimination of All Forms of Racial Discrimination, adopted by the UN General Assembly Resolution 2106 (XX), arts. 5, 6; CRPD, arts. 9, 13.
[36] CRPD, art. 13.
[37] CRPD Committee, General Comment No. 7, On the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, CRPD/C/GC/7, 9 November 2018, para. 81.
[38] UN Economic and Social Council (ECOSOC), Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, E/RES/2005/20, 2005 (ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005)), para. 18.
[39] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005) para. 18.
[40] CRC, art. 12: "1. States Parties shall assure to the child who is capable of forming their own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."
[41] Charter of Fundamental Rights of the European Union (CFREU), 2012/C 326/02 (2012), art. 24(1).

of the Child highlights the need for child-friendly justice systems that ensure children are heard and can effectively participate in proceedings affecting them.[42]

The CRC Committee has explained that the child's right to express their views freely in "all matters affecting the child" and to have those views given due weight "highlights the role of the child as an active participant in the promotion, protection and monitoring of their rights [and] applies equally to all measures adopted by States to implement the Convention."[43]

The CRC guarantees to every child capable of forming their own views, the right to express those views freely in all matters affecting the child and the views of the child being given due weight in accordance with age and maturity.[44] It provides, in particular, that the child shall be afforded the right to be heard and to participate in any judicial or administrative proceedings affecting them.[45] This standard is reflected in the Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, which prescribes that child victims and witnesses be enabled to express their views, concerns and preferences regarding their involvement in justice processes, and that due regard be given to those views.[46] Where children's wishes cannot be accommodated, professionals[47] should explain the reasons to the child in an understandable manner.[48]

At the regional level, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice further elaborate the right to be heard through concrete procedural guarantees. The Guidelines prescribe that: "[c]hildren should be provided with all necessary information on how effectively to use the right to be heard. However, it should be explained to them that their right to be heard and to have their views taken into consideration may not necessarily determine the final decision."[49] In addition, "[j]udgments and court rulings affecting children should be duly reasoned and explained to them in language that children can understand, particularly where the child's views and opinions have not been followed."[50]

To exercise the right to be heard, the child must be provided with the opportunity, the space, audience and the influence necessary to ensure that their views are given due weight and are capable of informing decision-making.[51] The Recommendation on developing and strengthening integrated child protection systems in the best interests of the child further calls on EU Member States to ensure that children are heard in legal proceedings on all matters affecting them, and that they can participate effectively and in a safe environment, while avoiding secondary victimisation caused by multiple hearings and examinations.[52]

The CRC Committee has affirmed that "[a] child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both

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[42] EU Strategy on the Rights of the Child 2021-2027, COM/2021/142 final (24 March 2021), section 4.
[43] Committee on the Rights of the Child (CRC Committee), General Comment No. 5, On general measures of implementation of the CRC, CRC/GC/2003/5, 27 November 2003 (CRC Committee, GC No. 5), para. 12, p. 4.
[44] CRC, art. 12(1); CRC Committee, General Comment No. 12, The right of the child to be heard, CRC/C/GC/12, 20 July 2009 (CRC Committee, GC No. 12), para. 1.
[45] CRC, art. 12(2); CRC Committee, GC No. 12, para 1.
[46] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 21.
[47] ""Professionals" refers to persons who, within the context of their work, are in contact with child victims and witnesses of crime or are responsible for addressing the needs of children in the justice system… This includes, but is not limited to, the following: child and victim advocates and support persons; child protection service practitioners; child welfare agency staff; prosecutors and, where appropriate, defence lawyers; diplomatic and consular staff; domestic violence programme staff; judges; court staff; law enforcement officials; medical and mental health professionals; and social workers". ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 9(b).
[48] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 21(c).
[49] Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (CoE, Guidelines on Child-Friendly Justice) adopted on 17 November 2010, para. 48.
[50] CoE, Guidelines on Child-Friendly Justice (2010) para. 49.
[51] According to the Lundy model of child participation, the child must be given the voice, the space, the audience and the influence in order to effectively exercise their right to be heard under Article 12 of the CRC.
[52] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(e).

accessible and child-appropriate. Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of court rooms, clothing of judges and lawyers, sight screens, and separate waiting rooms".[53]

The CRC Committee has highlighted the persistent exclusion of children with disabilities from decision-making processes that affect them.[54] The CRPD addresses these practices by requiring States Parties to ensure that children with disabilities are able to express their views freely on all matters affecting them, on an equal basis with other children, and to be provided with disability- and age-appropriate assistance to exercise this right.[55] The CRC Committee, for its part, has affirmed that children with disabilities must be heard in all procedures affecting them, with their views respected in accordance with their evolving capacities.[56] States Parties are required to ensure that children are provided with appropriate modes of communication and necessary support to facilitate the expression of their views. This includes training for families and professionals on respecting evolving capacities and enabling children with disabilities to take increasing responsibility for decisions affecting their lives.[57]

While the CRC provides that children must be given the opportunity to be heard in judicial and administrative proceedings either directly or through a representative or appropriate body,[58] the CRC Committee has clarified that this must not entail effective substitution of the child's own views with those of a third party.[59] The right to be heard requires that children are able to express their views freely, without pressure or undue influence, and that their own perspectives are conveyed.[60] States must therefore begin from the presumption that every child has the capacity to form and express views and must create conditions that enable children to do so in a safe, respectful and supportive environment.[61]

While different roles and forms of assistance may be established to support children in expressing their views, mediation through parents may in certain circumstances frustrate the child's ability to exercise this right, particularly where parents may have divergent or conflicting interests or may be directly or indirectly implicated in the rights or best interests of the child. In such circumstances, reliance on parental mediation risks distorting or silencing the child's voice and undermining the effectiveness of the right to be heard, highlighting the need for independent, child-centred and rights-based mechanisms to support children's direct participation.

The CRC Committee further emphasizes that child victims must be specifically consulted and enabled to express their views freely regarding their involvement in judicial proceedings.[62] This is particularly important for child victims with disabilities, who may otherwise be excluded through assumptions about capacity, credibility or vulnerability. The Committee makes clear that disability and/or communication difficulties must not be used as grounds for limiting participation or discounting the child's views.[63]

1.1.3. Training and awareness building of professionals

Training of justice actors is vital to ensure effective access to justice and the protection of the rights of persons with disabilities in justice proceedings. In the absence of such training, evidence and practical experience suggest that in many contexts, justice actors may be unaware of the rights of persons with disabilities; may lack understanding of disability; and may be unable to provide the

[53] CRC Committee, GC No. 12, para. 34.
[54] CRC Committee, General Comment No. 9, The rights of children with disabilities, CRC/C/GC/9, 27 February 2007 (CRC Committee, GC No. 9), para. 32.
[55] CRPD, art. 7(3).
[56] CRC Committee, GC No. 9, para. 32.
[57] CRC Committee, GC No. 9, para. 32.
[58] CRC, art. 12(2).
[59] CRC Committee, GC No. 12, para. 22.
[60] *Ibid.*
[61] *Ibid*, paras. 20, 23.
[62] *Ibid,* para. 63.
[63] *Ibid*, para. 21.

accommodations and support required for persons with disabilities to access justice on an equal basis.[64]

The OHCHR has stressed that: "States must also seek to overcome barriers in access to justice by providing training to judicial officers, lawyers and others, including forensic experts, prison staff and the police, on the human rights of persons with disabilities."[65]

Comprehensive training for the widest possible range of justice actors is therefore needed. The International Principles and Guidelines on Access to Justice for Persons with Disabilities (International Principles and Guidelines)[66] affirm that: "[all] those working in the justice system must be provided with awareness-raising and training programmes addressing the rights of persons with disabilities, in particular in the context of access to justice."[67]

Police officers, social workers and other first responders must receive appropriate training. To enable persons with disabilities to effectively exercise their legal capacity and make statements and testimonies, appropriate forms of support must be available. The judiciary must also receive the necessary training to respect equality before the law and legal capacity, and to provide the support required for the effective exercise of these rights.[68]

To secure the right of children to effective participation in justice processes, States must ensure that professionals working with children receive adequate training. The CRC provides that justice systems must be adapted to children's age, maturity and evolving capacities, which in turn requires specialized knowledge and skills among justice actors.[69]

The CRC Committee has repeatedly emphasized that continuous and systematic training of professionals involved in child justice is essential for the effective implementation of children's rights.[70] The CRC Committee has stressed that professionals should be able to work in interdisciplinary teams and be well informed about children's physical, psychological, mental and social development, including the specific needs of children in situations of vulnerability or marginalization.[71] Training should be multidisciplinary, systematic and ongoing, and should extend beyond knowledge of legal norms to include insights from psychology, social sciences and neuroscience, as well as awareness of discrimination affecting certain groups of children.[72] Particular emphasis should be placed on training professionals who have direct contact with children in age-appropriate communication and in working with children in situations of particular vulnerability.[73] These prescriptions regarding training are further elaborated in the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime. The Guidelines provide that interviews, examinations and investigations involving children must be conducted by trained professionals acting in a sensitive, respectful and child-appropriate manner.[74] They indicate that States should ensure adequate education, training and information for professionals working with child victims and witnesses, with a view to developing specialized methods and approaches that minimize trauma and

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[64] ICJ, 2024. *Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings*, p. 81.
[65] OHCHR, Report on Access to Justice Under Article 13 CRPD, para. 66.
[66] Building on the provisions and interpretations of the CRPD and other international standards and best practices, the document affirms ten key principles of access to justice for people with disabilities and sets out detailed guidelines on how to implement each one. The Principles and Guidelines are intended to be a practical tool to help inform the design and implementation of justice systems that provide equal access to justice for persons with disabilities, in line with international human rights standards. ICJ, 2020. *Groundbreaking new UN guidance on access to justice for persons with disabilities.*
[67] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, principle 10.
[68] CRPD Committee, GC No. 1 para. 39.
[69] CRC, art. 13.
[70] CRC Committee, General Comment No. 24, On children's rights in the child justice system, CRC/C/GC/24, 18 September 2019 (CRC Committee, GC No. 24), para. 39; CRC Committee, GC No. 12, para. 134(g); CRC Committee, General comment No. 10, on Children's Rights in Juvenile Justice, CRC/C/GC/10, 25 April 2007, para. 97.
[71] CRC Committee, GC No 24, para. 39.
[72] *Ibid*, para. 113.
[73] CoE, Guidelines on Child-Friendly Justice (2010), p.13.
[74] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 13.

protect children's dignity.[75] Training should cover children's rights, ethical standards, child development, communication skills, trauma-informed interviewing techniques and cross-cultural considerations.[76]

Within the EU, the EU Parliament and Council Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (Victims' Rights Directive, VRD) reinforces these standards. The VRD requires Member States to provide officials who are likely to engage with victims, including police officers and court personnel, with appropriate general and specialized training reflecting their level of contact.[77] This obligation extends to judges, prosecutors, lawyers and providers of victim support and restorative justice services.[78] Training must enable professionals to recognize victims, understand their needs and treat them in a respectful, professional and non-discriminatory manner, with due regard to vulnerability, including age.[79] The EU Strategy on the Rights of the Child similarly calls for support to judicial training providers and relevant professional bodies to strengthen knowledge of children's rights and child-friendly and accessible justice, while promoting integrated child protection systems that place the child at the centre and foster cooperation among all relevant authorities and services.[80]

1.2. Implementation in practice

1.2.1. Equal treatment before the law, legal capacity and equal participation

In **Austria, Romania,** and **Serbia**, children with disabilities as rights-holders entitled to equal treatment before the law and participation in criminal proceedings have been incorporated into law. A number of domestic laws, administrative regulations and policies refer to the best interests of the child, the right to be heard, and, to varying degrees, procedural safeguards aimed at reducing harm during questioning. Nonetheless, significant gaps persist in practice. In all three countries, children with disabilities frequently face structural, attitudinal and procedural barriers that undermine the effective enjoyment of legal capacity and equal participation.

In **Austria**, the right of children with disabilities to equal treatment before the law is formally guaranteed in the Federal Constitutional Law on the Rights of Children.[81] Yet its practical enjoyment is frequently conditioned on perceived cognitive capacity and/or ability to communicate in a manner perceived to be 'normal'.[82] Judges emphasize the need for clarity and comprehensibility of testimony, however, this standard is often applied in ways that systematically disadvantage children with communication or cognitive impairments.[83]

A fundamental problem is that statements made by children in proceedings are often considered less reliable than those made by adults, which contributes to a formal and non-participatory hearing practices.[84] For children with disabilities, such discriminatory preconceptions may be compounded by disability-based assumptions, producing an intersectional disadvantage that further undermines the right to equal treatment. As a result, the testimony of children with disabilities is routinely questioned, particularly in the absence of material evidence, effectively linking the right to be heard to expectations of a specific type of clear verbal communication.[85] Statements provided through assisted or alternative communication are not regularly and formally collected and recognized by

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[75] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), paras. 40-42.
[76] *Ibid,* para. 42.
[77] Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, L 315/57 (Victims' Rights Directive), art. 25.
[78] *Ibid.*
[79] Victims' Rights Directive, art. 25(5).
[80] EU Strategy on the Rights of the Child 2021-2027, COM/2021/142 final (24 March 2021), pp. 12, 15.
[81] The Federal Constitutional Law on the Rights of Children (Bundesverfassungsgesetz über die Rechte von Kindern), came into force on 16 February 2011 (Austria), arts. 6, 7.
[82] LBI-GMR, National Report Austria (2025), p. 21.
[83] *Ibid.*
[84] *Ibid.*
[85] *Ibid.*

police or courts, and even when caregivers or support persons can provide support in the interpretation of a child's communication, such statements are in practice often excluded or assigned reduced evidentiary value.[86] These practices substantially weaken equality before the law and risk excluding children with disabilities from meaningful participation altogether.

In **Romania**, legal guarantees of equality and child participation[87] coexist with highly inconsistent practices. Children, particularly those of younger age or with intellectual and/or psychosocial disabilities, may be excluded from meaningful participation despite existing safeguards,[88] as they are often perceived as incapable of active or full involvement.[89] Several children reported not being consulted on their preferred mode of communication and being expected to testify orally even when distressed.[90] Children's testimonies also point to stigma, differential treatment and an over-protective approach based on assumptions of incapacity,[91] undermining their right to equal treatment before the law.

A similar tension between formal rights and practice is evident in **Serbia**. While the Family Law recognizes children as rights-holders and affirms the principle of child participation,[92] it simultaneously retains outdated legal concepts, including full deprivation of legal capacity on the basis of disability[93] and the extension of parental rights[94] beyond the age of majority, particularly in cases involving disability.[95] The right of the child to be heard is reflected indirectly in criminal justice legislation through provisions on child questioning and participation. The Criminal Procedure Code allows for psychiatric assessments to evaluate a witness's capacity to testify,[96] enabling experts to determine whether a person has 'mental impairments' and can provide reliable testimony.[97] Although intended as a protective measure, in practice this mechanism may operate in an exclusionary manner. Rather than focusing on procedural accommodations and supported decision-making by asking what can be done to enhance participation, such assessments may shift the burden onto the child to "prove" their capacity or be excluded from participating on an equal basis, undermining the presumption of legal capacity and increasing the risk of secondary victimization.[98]

Overall, participation of children with disabilities in Serbia often depends on case-by-case decisions, such as the granting of "particularly sensitive witness" status,[99] and on the uneven availability of accommodations, with children's views frequently sought only in a limited or formalistic manner.[100] The need for disability-related adaptations and supports is not systematically evaluated or provided from first contact with the justice system. Barriers faced may differ according to type of disability. Examples of such barriers include limited physical access to justice facilities and services and the unavailability of accessible transport limiting in-person participation of persons with disabilities;

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[86] LBI-GMR, National Report Austria (2025), p. 21.
[87] Law No. 272/2004 on the Protection and Promotion of the Rights of the Child (Romania), art. 6.
[88] TdH, National Report Romania (2025), p. 10.
[89] *Ibid,* p.14.
[90] *Ibid,* p.10.
[91] TdH, National Report Romania (2025), p.14.
[92] Family Law, Official Gazette of the Republic of Serbia, No. 18/2005, 72/2011 – other law and 6/2015, art. 65.
[93] *Ibid*, art. 146.
[94] Parental rights under Serbian law derive from parental duties and include far-reaching powers of care, upbringing, education, legal representation, and management of the child's income and property (Family Law Act (Serbia), arts. 67–74).
[95] "Parental rights may be prolonged after the child reaches maturity, if the child, due to illness or impediments in psychophysical development, is unable to take care of himself/herself and of the protection of his/her rights or interests, or if he/she endangers his/her own rights and interests by his/her actions." Family Law (Serbia), art. 85.
[96] Criminal Procedure Code (Serbia), Official Gazette of the Republic of Serbia, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021, art. 131(2).
[97] Criminal Procedure Code (Serbia), art. 132(3).
[98] CRiC, National Report Serbia (2025), p. 11.
[99] Articles 103 and 104 of the Criminal Procedure Code (Serbia) establish that the designation of particularly sensitive witness status may be applied to individuals whose age, life experience, lifestyle, gender, health condition, or the nature, method and consequences of the crime as well as other relevant circumstances render them particularly vulnerable. These provisions establish a legal foundation for differentiated treatment of child victims, including those with disabilities, enabling the proceedings to be adapted to their needs.
[100] CRiC, National Report Serbia (2025), p. 30.

shortages of trained professionals and communication supports affect children with sensory disabilities; complex legal language, the absence of Augmentative and Alternative Communication (AAC) or Easy-to-Read materials; and a lack of predictable, child-appropriate and trauma-informed procedures.[101]

Participation is further restricted where disability intersects with factors such as gender, ethnicity, language, poverty, rural residence, migration status or placement in residential care. Reported barriers include stigma related to disability and ethnicity; limited access to sign language and minority-language interpretation; and transport and financial constraints.[102]

Across **Austria**, **Romania** and **Serbia**, children with disabilities are often treated as less reliable witnesses or subjected to additional scrutiny as a condition of their participation. Such treatment contravenes the CRC and CRPD, which provide that all persons enjoy the right to legal capacity and the provision of appropriate accommodations to enable participation. The lack of systematic and individualized, case-by-case, assessment of support needs (such as assisted communication, Easy-to-Read materials, trained intermediaries or adapted questioning) means that existing protections and safeguards relating to equality before the law frequently remain ineffective and unavailable in practice.

To address the persistent gap between formal recognition and effective, substantive enjoyment of equal treatment before the law, States should adopt measures to ensure that children with disabilities can enjoy legal capacity on an equal basis with other children and are enabled to participate in criminal proceedings on an equal basis with others. Laws and practices should not adopt approaches that condition participation on assessments, determinations or assumptions regarding cognitive ability or verbal clarity and should remove provisions and practices that indirectly restrict children's legal capacity on the basis of disability. Assumptions grounded in stereotypes relating to children with disabilities concerning their credibility, reliability or competence must not be used to limit participation or to discount their inputs or statements. Justice systems should recognize diverse forms of communication and expression as valid and ensure that appropriate support and procedural accommodations are provided to enable children to participate effectively and on an equal basis. Strengthening supported decision-making approaches and ensuring that disability-related needs are identified and addressed from the earliest point of contact with authorities and throughout all stages of the justice process are essential to safeguarding equal participation and non-discrimination in practice.

1.2.2. Right to be heard

In **Austria, Romania** and **Serbia**, the right of the child to be heard in judicial proceedings is formally recognized in law or policy. National laws refer to children's participation, the best interests of the child and the need for child-sensitive procedures. However, across all three countries, the implementation of this right remains inconsistent and highly dependent on professional discretion of individual justice actors. For children with disabilities in particular, the right to be heard is frequently conditional, narrowly construed and unevenly applied, often resulting in limited or symbolic participation.

In **Austria**, children's right to participation is explicitly guaranteed by the Federal Constitutional Law on the Rights of Children.[103] In addition, the right of children to be heard in court in civil proceedings is legally guaranteed from the age of ten;[104] there is no explicit minimal age limit in criminal proceedings. Its application in practice remains inconsistent and highly case-dependent.[105] Hearings frequently take place only where the child is deemed capable of providing a "clear and comprehensible" statement,[106] a threshold applied particularly restrictively to children with

[101] CRiC, National Report Serbia (2025), p. 30.
[102] *Ibid,* pp. 35-36.
[103] Federal Constitutional Act on the Rights of Children (Austria), BGBl I No 4/2011, art. 4.
[104] Non-Contentious Proceedings Act (Austria), BGBl I No 111/2003 (AußStrG, Außerstreitgesetz), section 105(1).
[105] LBI-GMR, National Report Austria (2025), p. 26.
[106] Non-Contentious Proceedings Act (Austria), section 105(2).

disabilities and often results in hearings being waived.[107] While some judicial actors emphasize the importance of hearing children as a matter of respect and trust, participation is often mediated through parents or expert opinions, especially for younger children.[108]

Where hearings do take place, they tend to be formal and adult-centred, rather than structured as a process adapted to the child's needs and designed to enable that the child can, through the provision of support and accommodation, participate effectively and on an equal basis.[109] This reflects a broader tendency to regard children's statements as less reliable,[110] which in turn reinforces non-participatory hearing practices and increases the risk of exclusion of children with disabilities from meaningful involvement in proceedings. Structural barriers, including the lack of accessible and child-friendly spaces and limited professional expertise in disability-sensitive interviewing, further constrain effective participation.[111]

Children's testimonies confirm deficiencies in effectively ensuring the right to be heard: while some felt supported and listened to, others reported anxiety, isolation and frustration at not being asked how they wished to communicate or being expected to testify orally despite distress or communication difficulties.

In **Romania**, the law explicitly guarantees the child's right to be heard in judicial and administrative proceedings[112] and requires that procedures be adapted in accordance with the child's age, maturity and individual circumstances, including their communication and accessibility needs. In practice, the implementation varies considerably. Some professionals described positive practices, including advance consultation with children, use of child-friendly rooms and the provision of psychological support. Others, however, acknowledged that children with disabilities, especially those with intellectual and/or psychosocial disabilities, are sometimes excluded from meaningful participation.[113] Shortages of interpreters and support professionals, combined with limited consultation about communication preferences and needs, further restrict children's ability to express their views.[114]

In **Serbia**, the obligation to give the child's views due weight is said to be inconsistently implemented, as disability-related needs are not systematically assessed and children's views and preferences are seldom documented in case files.[115] Opportunities for expressing views through means other than oral testimony, such as written statements, drawings, play-based or narrative techniques, or pre-recorded or remote testimony, remain only sporadically available and their availability is largely dependent on the granting of "particularly sensitive witness" status and on localized capacity of particular justice facilities and actors.[116]

Consultation with children on how they wish to be heard is generally limited and provided only on an ad hoc basis.[117] Engagement prior to questioning is usually limited to logistical matters rather than a meaningful process aimed at informing the child and identifying their preferences and needs regarding participation.[118] Although the principle that children should not be compelled to testify is widely accepted, practices concerning voluntariness differ considerably. While some judicial actors adapt settings or rely on alternative evidence, others employ coercive measures, including

[107] LBI-GMR, National Report Austria (2025), p. 20.
[108] *Ibid.*
[109] *Ibid.*
[110] *Ibid,* p. 26.
[111] *Ibid.*
[112] Law No. 272/2004 on the Protection and Promotion of the Rights of the Child (Romania), of 21 June 2004, art. 24.
[113] TdH, National Report Romania (2025) p. 10.
[114] *Ibid.*
[115] CRiC, National Report Serbia (2025) p. 31.
[116] *Ibid.*
[117] *Ibid,* pp. 30-31.
[118] *Ibid,* p. 31.

compulsion orders or sanctions against parents.[119] In practice, such sanctions may result in parents pressuring or obliging the child to testify or participating on the child's behalf, thereby undermining the child's free and informed participation. These approaches are inconsistent with international human rights law and standards on the rights of the child, under which children's participation should be genuinely voluntary, respectful of their evolving capacities, and supported through appropriate safeguards rather than enforced through coercion.

Across the three countries, a common pattern is evident: the right to be heard is frequently understood by justice actors as a procedural option managed or determined by adults, rather than as a substantive right held by the child. In addition, participation is often equated with oral testimony in formal settings, while alternative forms of expression and supported participation remain exceptional.

To address the uneven and conditional implementation of the right of children with disabilities to be heard, States should ensure that this right is guaranteed in practice and not limited by assumptions about capacity, age or mode of communication. The right to be heard should be treated as a binding guarantee, requiring proactive measures to enable children to express their views in ways that reflect their individual needs, will and preferences. Authorities should end practices that prioritize formal, adult-centred testimony and instead ensure that participation is supported through adapted, child-sensitive approaches. This includes recognizing diverse forms of expression, consulting children on how they wish to be heard, and ensuring that the absence of clear verbal communication does not result in complete or partial exclusion or diminished evidentiary weight being given to what the child has expressed. In line with international human rights law and standards on the rights of the child, coercive practices, such as compelling children to testify against their will or imposing sanctions on parents for a child's non-participation, should be explicitly eliminated. Strengthening professional awareness and institutional responsibility for facilitating meaningful participation is essential to ensuring that children with disabilities can effectively exercise their right to participate – including by deciding whether, when and how to participate – on an equal basis with others.

1.2.3. Training and awareness building of professionals

Across **Austria, Romania** and **Serbia**, insufficient and inconsistent training of justice professionals emerges as a key structural barrier to the effective participation and protection of children with disabilities in criminal proceedings. While some forms of child-related training are implemented in all three countries, disability-inclusive, child-friendly and trauma-informed approaches are not systematically embedded across the justice chain. Training is often voluntary, generic, or dependent on individual initiative.

In **Austria**, there is a clear lack of mandatory and systematic training on disability, accessibility and child-friendly communication for judges, prosecutors and other justice actors.[120] Training in this regard is largely voluntary and not integrated into core curricula, meaning that knowledge is often acquired informally and on an individual basis.[121]

Although some general modules on anti-discrimination and child protection exist, they rarely address the intersection with disability, and training on communication-related aspects is largely absent.[122] There are no known courses focusing on, for example, Easy-to-Read language, assisted or alternative communication, or interviewing children with disabilities. As a result, practical expertise depends heavily on the personal commitment of individual justice actors, rather than institutional standards. This leads to knowledge gaps and the loss of expertise when trained or experienced individuals leave their positions.[123]

In **Romania**, training opportunities relating to children's rights and disability awareness reach certain professional groups to a greater extent than in Austria, but remain unevenly distributed

[119] CRiC, National Report Serbia (2025) p. 31.
[120] LBI-GMR, National Report Austria (2025) p. 21.
[121] *Ibid.*
[122] *Ibid.*
[123] *Ibid,* p. 22.

across sectors and regions. Social workers and psychologists are reported to participate more frequently in training provided by their institutions, public authorities or non-governmental organizations (NGOs), covering children's rights and disability awareness.[124] However, many local courts and prosecutor's offices lack staff with expertise especially regarding psychosocial and/or intellectual disabilities or communication support, and NGOs often act to fill these gaps.[125] For judges and lawyers, training on disability and child-friendly justice remains optional, fragmented and insufficiently disseminated.[126] Sign language interpreters are subject to more structured training and re-accreditation requirements every two years, yet access to continuous professional development is uneven.

In Serbia, legislation requires mandatory specialization for judges, prosecutors, police officers and lawyers handling cases involving child victims.[127] The Judicial Academy delivers mandatory training on the application of the Law on Juvenile Offenders and Protection of Minors in Criminal Justice Proceedings (Child Justice Law) for professionals working with child offenders and victims. In practice, however, this training remains basic and largely generic, with disability rights absent from the curriculum.[128]

As in Austria and Romania, training on disability rights, trauma-informed interviewing and working effectively with children with disabilities is not mandatory across the justice chain and is largely absent.[129] There is no requirement for specialized competence in disability-inclusive practice, and professionals with relevant expertise are rarely involved from the first point of contact.[130]

In practice, complex victim-protection tasks are sometimes delegated to judicial assistants who lack specialized training in children's rights and disability, while lawyers often lack the skills necessary to provide child-friendly and disability-sensitive legal representation, including knowledge of appropriate procedural accommodations.[131] Multi-sectoral capacity-building opportunities remain very limited, and mostly depend on sporadic, donor-funded, civil society initiatives.[132]

Across **all three countries**, a common pattern emerges: training on disability rights and on the participation of children with disabilities is insufficiently prioritized, inconsistently delivered and poorly integrated into mandatory professional education. This results in limited awareness of accessible communication methods, reliance on formalistic procedures, and excessive dependence on individual goodwill, knowledge and experience of judges, lawyers, social workers, and other practitioners, rather than application of appropriate institutional standards.

To address systemic gaps in professional capacity, States should ensure that all justice actors involved in criminal proceedings receive mandatory, continuous and disability-inclusive training as an integral part of their core professional education. Training should extend beyond general child protection principles and equip professionals with practical skills in child-friendly, trauma-informed and rights-based approaches, including accessible communication, supported participation and the identification and implementation of procedural accommodations. Disability should be addressed as a cross-cutting issue throughout the justice chain, rather than an optional subject, and training should include a focus on the rights of persons with disabilities under domestic and international law and standards. Strengthening multidisciplinary training and incorporating minimum competence standards in law and policy are necessary to reduce reliance on individual initiative, promote consistent practice, and ensure that children with disabilities are treated with dignity, equality and respect at all stages of proceedings. Such training is also necessary to ensure States' compliance with their obligations under the CRC, the CRPD, and relevant European standards, including the

[124] TdH, National Report Romania (2025) p. 15.
[125] *Ibid,* p. 4.
[126] *Ibid,* p. 15.
[127] Law on Juvenile Offenders and Protection of Minors in Criminal Justice Proceedings (Serbia) (Child Justice Law), Official Gazette of the Republic of Serbia, No. 85/2005, art. 150(1).
[128] CRiC, National Report Serbia (2025) p. 35.
[129] *Ibid,* p. 34.
[130] *Ibid.*
[131] *Ibid,* p. 22.
[132] *Ibid,* p. 35.

European Convention on Human Rights (ECHR),[133] the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention),[134] and the Committee of Ministers Guidelines on child-friendly justice and EU instruments such as the Victims' Rights Directive and Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse and sexual exploitation of children and child pornography.[135] These include duties relating to participation, accessibility, procedural accommodations, equality before the law and the provision of appropriate support to children with disabilities throughout proceedings.

2. Procedural safeguards for child victims with disabilities at all stages of the administration of justice

2.1. International law and standards

2.1.1. Right to procedural accommodations

A foundational principle underlying protection is reflected in article 3 of the CRC: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. Appropriate procedural safeguards for children in all decision-making affecting them are an integral part of the child's right to have their best interests taken as a primary consideration. The CRC Committee has emphasized that: "[t]o ensure the correct implementation of the child's right to have their best interests taken as a primary consideration, some child-friendly procedural safeguards must be put in place and followed. As such, the concept of the child's best interests is [also] a rule of procedure […]."[136] The procedural rights guaranteed under international human rights law have specific application in cases involving children and should be adapted to them. For instance, proceedings which may not be considered unduly prolonged for an adult, might be too long for a child.[137]

Child-friendly justice encompasses justice systems which guarantee the respect and the effective implementation of all children's rights, giving due consideration to the child's level of maturity and understanding and to the circumstances of the case. It includes justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.[138] In this context, the EU Recommendation on developing and strengthening integrated child protection systems calls on Member States to ensure that children can benefit from special protection measures during criminal proceedings, including the use of communication technologies and other technical tools for giving or taking evidence, taking into account their particular vulnerability and assessed needs.[139]

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[133] Council of Europe, European Convention on Human Rights (ECHR), ETS No. 5 (4 November 1950).
[134] Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, CETS No. 201, 25 October 2007.
[135] EU, Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, L 335/1.
[136] CRC Committee, General Comment No. 14, On the right of the child to have their best interests taken as a primary consideration art. 3, para. 1, CRC/C/GC/14, 29 May 2013, para. 93 emphasized that: "The passing of time is not perceived in the same way by children and adults. Delays in or prolonged decision-making have particularly adverse effects on children as they evolve. It is therefore advisable that procedures or processes regarding or impacting children be prioritized and completed in the shortest time possible. The timing of the decision should, as far as possible, correspond to the child's perception of how it can benefit him or her, and the decisions taken should be reviewed at reasonable intervals as the child develops and their capacity to express their views evolves."
[137] ICJ, Recommendations on the Main Principles Governing the Individual Assessment of Children in Conflict with the Law (2021) p. 20.
[138] CoE, Guidelines on Child-Friendly Justice (2010), p. 9.
[139] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(c).

The CRC Committee highlights that in order to effectively participate in the proceedings, a child needs to be supported by all those involved in the administration of the justice system:

> "Proceedings should be conducted in a language the child fully understands or an interpreter is to be provided free of charge. Proceedings should be conducted in an atmosphere of understanding to allow children to fully participate. Developments in child-friendly justice provide an impetus towards child-friendly language at all stages, child-friendly layouts of interviewing spaces and courts, support by appropriate adults, removal of intimidating legal attire and adaptation of proceedings, including accommodation for children with disabilities."[140]

Procedural accommodations are vital in providing for access to justice for persons with disabilities and realizing such rights as the rights to legal capacity, participation, information, interpretation, effective assistance of legal counsel and legal aid.[141] To make effective the guarantees afforded by article 12(3) of the CRPD, it is critical that national authorities act to "create an actionable and enforceable right to receive the individually determined procedural accommodations, including support, necessary to enable persons with disabilities to participate effectively in all proceedings in any court, tribunal or forum".[142]

The CRPD Committee has consistently indicated that procedural accommodations should be provided on the basis of the 'free choice and preference' of the person concerned.[143] With specific reference to judges, according to the OHCHR, "(t)he judge or the responsible entity should give primary consideration to the request of the individual with disability, as they know best what their own accommodation needs are".[144]

The International Principles and Guidelines on Access to Justice for Persons with Disabilities, developed under the leadership of the UN Special Rapporteur on the Rights of Persons with Disabilities sets out in greater depth what States must do to give effect to their obligations in this area.[145] According to the Principles and Guidelines, procedural accommodations "encompass all the necessary and appropriate modifications and adjustments needed in a particular case, including intermediaries or facilitators, procedural adjustments and modifications, adjustments to the environment and communication support, to ensure access to justice for persons with disabilities".[146]

It is also important to ensure all procedural accommodations are gender-sensitive and age appropriate.[147] States should enact legislation and produce regulations, policies, and guidelines to enable "persons with disabilities to request procedural accommodations, including modifications of or support in legal processes, with appropriate protection of their privacy."[148] Throughout legal proceedings, participants should be "advised of the availability of procedural accommodations if needed and desired because of disability."[149]

In addition to procedural accommodations, the CRPD recognises reasonable accommodation as an intrinsic component of the immediately applicable duty of non-discrimination under articles 2 and 5.[150] As stated by the CRPD Committee, "[t]he duty to provide reasonable accommodation is an

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[140] CRC Committee, GC No. 24, para. 46.
[141] ICJ, Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings (2024), p. 95.
[142] OHCHR, Principles and Guidelines on Access to Justice for Persons with Disabilities (2020) principle 1.
[143] CRPD Committee, *Concluding observations on the initial report of Serbia*, 23 May 2016, CRPD/C/SRB/CO/1, para. 24; CRPD Committee, *Concluding observations on the initial report of Armenia*, 8 May 2017, CRPD/C/ARM/CO/1, para. 22; and CRPD Committee, *Concluding observations on the initial report of Bosnia and Herzegovina*, 2 May 2017, CRPD/C/BIH/CO/1, para. 25.
[144] OHCHR, Report on Access to Justice Under Article 13 CRPD, para. 26.
[145] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020)
[146] *Ibid,* principle 3.
[147] For more details on gender-appropriate procedural accommodations see: Validity Foundation, 2024. Fair Trial Denied: Defendants with Disabilities Face Inaccessible Justice in the EU, p. 71.
[148] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), guideline 3.2(k).
[149] *Ibid,* guideline 3.2(l).
[150] CRPD Committee, GC No. 6, para. 23.

individualized reactive duty that is applicable from the moment a request for accommodation is received. Reasonable accommodation requires the duty bearer to enter into dialogue with the individual with a disability."[151] In addition to this reactive obligation, the duty to provide reasonable accommodation entails a proactive obligation on justice actors to anticipate needs and provide accommodations even in the absence of a specific request.

As the CRPD Committee has further explained: "it is important to note that the duty to provide reasonable accommodation is not limited to situations in which the person with a disability has asked for an accommodation or in which it could be proved that the alleged duty bearer was actually aware that the person in question had a disability. It should also apply in situations where a potential duty bearer should have realized that the person in question had a disability that might require accommodations to address barriers to exercising rights."[152]

This general reasonable accommodation standard is similarly applicable to the procedural accommodation standard in terms of the right to access to justice. While both concepts aim to ensure equality and effective participation, an important distinction exists between them. Procedural accommodations, as a component of the right of access to justice, are not subject to a proportionality test and must be provided whenever necessary to ensure effective participation.[153] By contrast, reasonable accommodations may be limited where it would impose a disproportionate or undue burden on the duty bearer.[154]

For example, a procedural accommodation in the context of access to justice may include the provision of intermediaries or support persons, the use of simplified or age-appropriate language during questioning, communication assistance, adaptations to the layout or conduct of hearings, and alternative methods of giving evidence, such as testimony via video link.[155] Such measures constitute "necessary and appropriate modifications and adjustments"[156] required to ensure the individual's effective participation in a specific case. By contrast, a reasonable accommodation may involve measures such as modifying existing facilities to make them accessible, providing assistive technology, or reorganizing services and schedules to meet an individual's needs.[157] While such accommodations are also aimed at ensuring equal participation, they may be subject to a proportionality assessment and can be limited where they would impose a disproportionate or undue burden.

Most of the measures described in this report that are required to eliminate barriers to access to justice faced by persons with disabilities in justice processes and procedures amount to "procedural accommodations", which operate as the primary standard in the context of legal proceedings, as they form part of the right of access to justice under article 13 CRPD. Reasonable accommodation, CRPD, constitutes a non-discrimination duty that may be limited where it would impose a disproportionate or undue burden.[158] Unlike reasonable accommodation, procedural accommodations are not limited by the concept of disproportionate or undue burden.[159] Thus, procedural accommodations are the accommodations specific to ensuring the effective participation of victims, including child victims, in proceedings, with reasonable accommodation operating as a complementary guarantee.

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[151] *Ibid,* para. 24(b).
[152] *Ibid.*
[153] CRPD Committee, GC No. 6, paras. 25(d), 51.
[154] *Ibid,* para. 25.
[155] See the Model Rules-Based Process developed within the ENSURE project, in particular Chapter 4 ("Accommodations & Accessible Procedures"), for a for a broader list of procedural accommodations. Validity, 2026. *Model Rules-Based Process for Special Representatives, Intermediaries, and Support Persons*.
[156] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, p. 9.
[157] CRPD Committee, GC No. 6, para. 23.
[158] CRPD, arts. 2, 5.
[159] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities, 2020, p. 9.

States must therefore ensure that all persons with disabilities have access to the procedural accommodations necessary to enable their full participation in proceedings. The obligation to determine which accommodations are required and to make them available applies even where the person concerned does not request them. The CRPD Committee has characterized the practice of placing the responsibility to request accommodations solely on persons with disabilities as imposing a "disproportionate or undue burden" on those who are already marginalized.[160]

A person with a disability may choose to decline certain accommodations proposed or provided by the State. Nevertheless, States must offer and make available appropriate accommodations – determined in consultation with the person with a disability concerned.[161]

2.1.2. Process for individual assessment for adoption of procedural accommodations

As persons with disabilities may not be believed or taken seriously when they disclose their disabilities and related needs, justice actors should assume, in good faith, that an individual's disclosure of a disability and requests for accommodations are accurate and necessary, unless it is established in clear terms and on an objective basis that they are not.[162]

In addition to seeking the views of the individual regarding their accommodation needs, an individual assessment is necessary to ensure the full and effective participation of persons with disabilities in criminal proceedings.[163] It should take place from the first contact with the authorities, and should be used to identify the barriers that a person with disability experiences and their specific support needs.[164] The assessment will determine how to overcome the barriers, what support and procedural accommodations are necessary and how to provide these.[165]

The assessment is important for obtaining a comprehensive understanding of the child and information about the legal, psychological, social, emotional, physical and cognitive situation of the child.[166] The EU Recommendation on developing and strengthening integrated child protection systems calls on Member States to ensure that children are individually assessed and supported before, during and after legal proceedings, in accordance with their specific needs and taking into account their age, maturity and views.[167] Likewise, a common assessment framework should be established for a range of professionals working for and with children throughout all the proceedings that involve and affect the child.[168] As mentioned above, this framework must correspond to the principles of the child and disability rights-based approach.

The EU Victims' Rights Directive obliges Member States to ensure that victims receive a timely and individual assessment to determine whether, and to what extent, they would benefit from special measures during criminal proceedings.[169] This assessment must take into account the victim's personal characteristics, the nature of the crime and the circumstances in which it was committed.[170]

Victims with disabilities are explicitly identified as requiring particular attention in these assessments.[171] Child victims in particular are presumed to have specific protection needs and must

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[160] CRPD Committee, GC No. 6, para. 25(b).
[161] ICJ, Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings (2024), p. 100.
[162] *Ibid.*
[163] Validity Foundation, 2023. *Voices for justice, Toolchest for professionals*, p. 22.
[164] *Ibid.*
[165] See the Model Rules-Based Process developed within the ENSURE project, in particular Chapter 3 ("Individual Assessment & Matching Support to Needs"), for a more detailed description of the individual assessment process and its role in identifying and addressing support needs in criminal proceedings involving children with disabilities. Validity, 2026. *Model Rules-Based Process for Special Representatives, Intermediaries, and Support Persons*.
[166] CoE, Guidelines on Child-Friendly Justice (2010) p. 13.
[167] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(b).
[168] CoE, Guidelines on Child-Friendly Justice (2010) p. 13.
[169] Victims' Rights Directive, art. 22.
[170] *Ibid,* art. 22(2).
[171] *Ibid,* art. 22(3).

therefore always be subject to an individual assessment.[172] The VRD further requires that the assessment be carried out with the close involvement of the victim and take into account their wishes, including where they do not wish to benefit from certain measures.[173] Where circumstances change, the assessment, and measures adopted in response to the assessment, must be updated throughout the proceedings.[174]

2.1.3. Intermediaries and support persons

International standards recognize that children may require assistance from trained professionals to understand proceedings, communicate effectively and cope with the emotional impact of participation. The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime provide that child victims and witnesses should have access to assistance from trained professionals from the initial report through to the conclusion of proceedings.[175] Professionals involved in proceedings are required to develop and implement concrete measures to facilitate children's testimony at both pre-trial and trial stages. These measures include:[176]

- the involvement of child victim and witness specialists;
- where appropriate, the presence of support persons or trusted family members;
- and where necessary, the appointment of guardians to protect the child's legal interests.

Under Article 8 of the VRD, Member States are required to ensure that victims have access to confidential victim support services, free of charge and in accordance with their needs, before, during and for an appropriate period after criminal proceedings.[177] Access to such services must be proactive and automatic, and must not be dependent on the submission of a formal complaint. Competent authorities are required to facilitate referrals to support services.[178] These provisions ensure that assistance is not limited to court-appointed intermediaries, but extends to a wider range of support persons and specialist services, available whenever necessary to enable victims, including children with disabilities, to understand proceedings, be understood, and participate effectively throughout the justice process.

Intermediaries

Intermediaries, also sometimes referred to as "facilitators", are persons who work, as required, with justice system personnel and persons with disabilities to ensure effective communication by and with a person with a disability during legal proceedings.[179] Intermediaries are typically appointed and employed by the court or other justice actors[180] and their primary function is to facilitate communication between a person with a disability and justice actors. They are not support persons as such, but act to ensure that a victim understands questions and is understood by justice actors and other participants in legal processes.[181] The intermediary also takes time to understand the individual communication needs of victims and should be involved at the earliest possible stage of any legal proceedings or processes. Through intermediaries, persons with disabilities can be supported in making informed choices and communicating those choices clearly. This support is provided in different ways depending on the individual's particular support needs, but always through explaining and presenting information in forms that the person can understand. Intermediaries also

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[172] *Ibid,* art. 22(4).
[173] *Ibid,* art. 22(6).
[174] *Ibid,* art. 22(7).
[175] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005) para. 24.
[176] *Ibid,* para. 25.
[177] Victims' Rights Directive, art. 8(1).
[178] *Ibid.*
[179] ICJ, Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings (2024), p. 110.
[180] See, e.g., in the United Kingdom, article 18.27 of the Criminal Procedure (Amendment) Rules 2021 clarifies that intermediaries are appointed by the Court.
[181] See the Model Rules-Based Process developed within the ENSURE project for further detail on how the roles of Special Representative, Intermediary, and Support Person coordinate to support child victims with disabilities in criminal proceedings. Validity, 2026. *Model Rules-Based Process for Special Representatives, Intermediaries, and Support Persons*.

play a key role in recommending appropriate procedural accommodations and supports to facilitate effective participation.[182] The precise scope of the intermediary role may vary across jurisdictions.

According to the International Principles and Guidelines: "[i]ntermediaries are neutral and they do not speak for persons with disabilities or for the justice system, nor do they lead or influence decisions or outcomes."[183] Intermediaries or facilitators provide support to enable persons with disabilities to enjoy legal capacity on an equal basis with others.[184] Independent intermediaries trained to provide communication assistance to parties to the proceedings and the justice system should be available in every justice system.[185]

Intermediaries should be regarded as officers of the court and be accountable to the court or justice system more broadly. As a form of procedural accommodation, intermediaries should be made available to victims with disabilities wherever and whenever needed, to enable clear communication with the police and other justice actors, including courts, to ensure safe, fair and effective engagement and full participation in all stages of proceedings.[186] To this end, a sufficient number of trained intermediaries should be accessible from the outset of the process and throughout the administration of justice.[187] Systematic training on the role and use of intermediaries should be ensured, and intermediary services must be provided free of charge to persons with disabilities.[188] Where there is an insufficient number of qualified, court-appointed intermediaries available, courts should work in close collaboration with appropriate civil society organisations and professional bodies that provide such support.[189]

Support persons

The right to be accompanied by a support person, including, where appropriate, a relative or other trusted individual, while not expressly provided for under the CRPD, is an essential measure that must be made available to ensure equal access to justice for persons with disabilities. The CRPD requires States to provide access to the support persons with disabilities may require in exercising their legal capacity.[190] The CRPD Committee has interpreted the concept "support" broadly as including the possibility for persons with disabilities to choose one or more trusted persons to assist them in exercising legal capacity.[191]

In respect of the obligation of States to guarantee the right to be accompanied, support persons may perform functions distinct from those of intermediaries. The International Principles and Guidelines make clear that while intermediaries primarily facilitate communication and procedural accommodations, family members, friends, and other trusted persons may, for instance, provide moral and emotional support.[192]

At the EU level, the VRD provides that victims may be accompanied by a person of their choice during first contact with a competent authority where assistance is required to understand or to be understood, unless this arrangement would be contrary to the victim's interests or prejudice the proceedings.[193] Such measures are particularly important for children with disabilities, for whom

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[182] FENACERCI, 2023. Briefing paper on barriers faced by defendants with intellectual and/or psychosocial disabilities in the Criminal Justice System in Portugal, p. 61.
[183] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), p. 10.
[184] *Ibid*, principle 3.
[185] *Ibid*, p. 10.
[186] ICJ, Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings (2024), p. 114.
[187] *Ibid.*
[188] *Ibid*, pp. 114-115.
[189] Validity, 2026. *Model Rules-Based Process for Special Representatives, Intermediaries, and Support Persons*, p. 73.
[190] CRPD, art. 12(3).
[191] CRPD Committee, GC No.1, para 17.
[192] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), guideline 3.2(d).
[193] Victims' Rights Directive, art. 3(3).

intermediaries or support persons may serve as a bridge between the child and justice actors, facilitating communication, reducing stress and supporting meaningful participation.

2.1.4. Procedural adjustments and modifications

International and EU standards identify procedural adjustments that may be required to protect child victims with disabilities and enable their effective participation in criminal proceedings. Under the CRPD, States have an obligation to "ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations."[194] The CRPD Committee has clarified that persons with disabilities may require support to access justice and that such support "could take various forms, including recognition of diverse communication methods, allowing video testimony in certain situations, procedural accommodation, the provision of professional sign language interpretation and other assistive methods."[195]

The International Principles and Guidelines, indicate that procedures should be adapted to ensure fair treatment and effective participation of persons with disabilities.[196] Such adaptations may include adjustments to hearing venues, the provision of appropriate waiting areas, removal of formal attire such as wigs, adjustment of the pace of proceedings and modifications to the method of questioning where appropriate.[197]

For child victims, these disability-specific obligations intersect with child-friendly justice standards. The UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime indicate that States should ensure that justice processes are adapted to children's age, maturity and individual circumstances, and that measures are taken to protect children from distress, intimidation and secondary victimization.[198]

Procedural adjustments for child victims with disabilities should further include measures to limit unnecessary exposure to the justice process, such as reducing the number of interviews and statements; using audio-visual recording to avoid repeated questioning; and ensuring that children are not cross-examined directly by the alleged perpetrator – where compatible with the rights of the defence.[199] Physical and procedural separation from the accused, including through separate waiting areas and private interview rooms, should be applied as a standard measure.[200] Courts should also apply child-sensitive scheduling, ensure continuity in professional relationships, provide clear and accessible information about proceedings, and expedite proceedings involving child victims unless delay is demonstrably in the child's best interests.[201]

Similarly, the VRD requires Member States to establish conditions to avoid contact between victims and offenders where necessary, including through the use of separate waiting areas in new court premises.[202] The Directive further requires that during criminal investigations interviews be conducted without unjustified delay, that the number of interviews be kept to a minimum, and that victims may be permitted to be accompanied by a legal representative and a person of their choice.[203]

For victims with specific protection needs, the VRD provides for measures during court proceedings such as avoiding visual contact with the offender and enabling victims to be heard without being physically present in the courtroom, including through the use of communication technologies.[204] It

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[194] CRPD, art. 13.
[195] CRPD Committee, GC No.1, para. 39.
[196] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), guideline 3.2 (c).
[197] *Ibid.*
[198] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), paras. 10-14.
[199] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005) para. 31.
[200] *Ibid*, para. 31(b).
[201] *Ibid*, para. 30.
[202] Victims' Rights Directive, art. 19.
[203] Victims' Rights Directive, art. 20.
[204] Victims' Rights Directive, art. 23(3).

requires additional safeguards for child victims, including the possibility for interviews to be audio visually recorded and used as evidence, thereby limiting the need for repeated testimony.[205]

2.2. Implementation in practice

2.2.1. Right to procedural accommodations

Across **Austria, Romania,** and **Serbia** the law provides for a requirement to adapt criminal proceedings to the needs of children, including through procedural accommodations aimed at safeguarding their rights, dignity and effective participation. However, while general child-protection measures are relatively well developed, procedural accommodations specifically tailored to children with disabilities remain insufficiently regulated, inconsistently applied and weakly monitored. In all three countries, access to accommodations depends largely on the discretion of individual justice actors, fragmented support structures and uneven awareness, rather than on systematic needs assessment or enforceable entitlements.

In **Austria**, child victims are classified as particularly vulnerable victims under the Criminal Procedure Code, which entitles them to enhanced procedural protection.[206] This includes early assessment of protection needs, sensitive questioning, the presence of a person of trust, and access to psychosocial and legal assistance.[207] While these measures contribute to the protection of children in proceedings, they are not specifically designed to address disability-related needs, and specialized disability-sensitive services are limited.[208] Moreover, not all measures apply automatically. Safeguards such as exclusion of the public, being questioned by a person of the same sex, or specific interpretation arrangements must be requested and are subject to discretion.[209]

Psychosocial assistance is considered a key procedural support measure and is generally available at short notice. However, it typically also must be actively requested by the victim.[210] This may constitute a barrier where children or caregivers are unaware of its availability or lack the information, support or guidance needed to request it.[211] An exception applies to children under the age of 14 who are victims of sexual offences, for whom psychosocial assistance must be granted directly by the court.[212]

In **Romania**, Law No. 272/2004 on the Protection and Promotion of the Rights of the Child, which is grounded in the principle of the best interests of the child, provides the statutory basis for adapting hearings and communication to the child's capacities.[213] This includes the use of adapted language, specialized hearing rooms, audio-visual recording, and the involvement of psychologists or social workers.[214]

In practice, children with disabilities may benefit from various procedural accommodation, such as accompaniment by psychologists or social workers; counselling; adapted questioning techniques; the use of interpreters (including sign language or mimico-gestural interpreters); simplified language; and, in some cases, visual aids.[215] However, the availability and application of these measures varies considerably across institutions and regions.

The absence of a standardized system in Romania to monitor whether procedural adaptations for children with disabilities are consistently provided or effectively implemented further weakens the

[205] Victims' Rights Directive, art. 24(1).
[206] Criminal Procedure Code (Austria) (Strafprozessordnung, StPO) 1975, Federal Gazette/BGBl No 631/1975, section 66a(1)(3).
[207] *Ibid*, sections 66a(2) and 66b.
[208] LBI-GMR, National Report Austria (2025), p. 18.
[209] Criminal Procedure Code (Austria), section 66a(2).
[210] *Ibid*, section 66b.
[211] LBI-GMR, National Report Austria (2025), p. 10.
[212] Criminal Procedure Code (Austria), section 66b(1)e.
[213] Law No. 272/2004 on the Protection and Promotion of the Rights of the Child (Romania) of 21 June 2004, art. 2.
[214] TdH, National Report Romania (2025) p. 2.
[215] *Ibid*, p. 13.

protection of their rights.[216] Oversight of accommodations is limited and undertaken on an ad hoc basis, with only occasional checks by responsible authorities. There are no formal oversight procedures or clear accountability mechanisms to ensure continuity and quality of support throughout criminal proceedings.

In **Serbia,** procedural accommodations for child victims with disabilities are largely limited to persons with sensory impairments, such as hearing, visual and speech disabilities, with limited provision for children with intellectual and/or psychosocial disabilities.[217] There is no formal procedure for systematically assessing the accommodation needs of child victims or witnesses with disabilities. Measures such as sign-language interpretation, Easy-to-Read materials, AAC, scheduled breaks, or the need for the involvement of an intermediary, are neither routinely assessed nor guaranteed from the first contact with authorities.[218] Support is provided largely at the discretion of judicial authorities and is not guaranteed by law.[219]

As in Romania, there is no mechanism in Serbia to monitor whether procedural accommodations are consistently provided and effective.[220] Existing oversight focuses primarily on formal procedural compliance rather than on the quality or adequacy of accommodations provided.

In **all three countries**, procedural accommodations for children, while formally recognized in criminal justice systems, are not part of a coherent, rights-based framework addressing the needs and rights of children with disabilities. Accommodations are often treated as exceptional measures rather than as integral components of fair proceedings. Access to such accommodations is therefore typically discretionary and inconsistent. The absence of clear standards, automatic triggers and monitoring mechanisms means that procedural adaptations are frequently applied inconsistently, introduced late in the proceedings, or not provided at all. As a result, children with disabilities remain at risk of being insufficiently supported to understand, participate in and enjoy their rights on an equal basis throughout criminal proceedings, despite the existence of general child-protection safeguards.

States should guarantee procedural accommodations for child victims with disabilities as their right, rather than leaving the provision of such accommodations to discretion or ad hoc decision-making. Clear, rights-based frameworks should be established to ensure that accommodations are timely, individualized and fully disability-inclusive throughout all stages of criminal proceedings. Procedural accommodations should be provided free of charge and made available from the first point of contact with competent authorities, continuing consistently until the conclusion of the process. Systems should be designed so that accommodations are automatically triggered once needs are identified, without requiring children or their representatives to request them. Access to accommodations should not depend on the initiative or discretion of individual professionals. Instead, it should be supported by formal procedures, guidance and built-in safeguards to ensure consistency and fairness. States should also put in place effective oversight, accountability and monitoring mechanisms to guarantee the quality, continuity and effectiveness of procedural accommodations, and to prevent gaps in protection or unequal treatment among child victims with disabilities.

2.2.2. Process for individual assessment for adoption of procedural accommodations

Across **Austria, Romania,** and **Serbia**, individual assessment of children's needs for procedural accommodations is not implemented in a systematic, early or disability-inclusive manner. While all three countries allow for adaptations once vulnerabilities become apparent, none has established a comprehensive, mandatory mechanism ensuring that every child victim or witness, particularly children with disabilities, is assessed from the outset in line with international and European standards.

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[216] TdH, National Report Romania (2025) p. 14.
[217] CRiC, National Report Serbia (2025) p. 21.
[218] *Ibid*, p. 30.
[219] *Ibid*, p. 20.
[220] *Ibid*, p. 26.

In **Austria**, there is no formalized or systematic process for the individual assessment of child victims to determine the need for procedural accommodations, particularly in relation to disability.[221] Disability is largely understood in medicalized, functional or diagnostic terms rather than through a rights-based approach focused on removing barriers to participation and providing supports to ensure participation. Judicial consideration of disability typically depends on the existence of a formal diagnosis.[222] As a result, assessment of support needs is often reactive, and only initiated once difficulties in communication or participation arise during proceedings.[223] This approach disadvantages children with invisible disabilities, such as intellectual and/or psychosocial disabilities, which frequently remain unidentified or misunderstood.[224] The absence of early, proactive individual assessments contributes to the structural invisibility and the apparent underrepresentation of children with disabilities in criminal proceedings.[225]

In **Romania**, the legal framework allows for individualized measures and adaptations in proceedings involving children,[226] but does not require a standardized, early disability screening or the development of a tailored communication and accommodation plan in every case. Identification of disability-related needs, especially intellectual and/or psychosocial disabilities during the investigative stage, is therefore inconsistent.[227]

In practice, assessments of children with disabilities are usually carried out at the initial stage of contact with the justice system and are conducted by psychologists, social workers or medical specialists.[228] While such assessments may be mandatory when ordered by a court, particularly to inform decisions on cognitive development, trauma exposure or capacity to participate, there is no uniform legal requirement to conduct them in all cases.[229] Instead, assessments are commonly initiated at the request of a court, prosecutor or police authority, and the content and scope of recommendations vary depending on the institution involved.[230] While assessment outcomes may inform procedural accommodations, including adapted questioning methods, the presence of support persons or interpreters, and adjustments to timing and language, these recommendations are not applied consistently.[231]

In **Serbia,** no formal procedure exists for systematically assessing the procedural accommodation needs of child victims or witnesses with disabilities.[232] Initial assessments are conducted by police officers, with support from Centres for Social Work and under prosecutorial supervision.[233] Once proceedings are initiated, prosecutors often appoint an expert witness, most commonly a psychologist, to assess whether the child can be questioned and to identify necessary supports, such as interpreters or child protection specialists.[234] The type of expertise engaged depends on perceived needs and availability in the given locality and operates in the absence of clear legislative guidance.

Intersectional factors, such as experiences of children with disabilities which interact with gender, ethnicity, poverty, rural residence or placement in residential care, further exacerbate barriers to participation. These factors are not typically captured through any structured assessment process.[235] While some prosecutors or judges arrange separate entrances, appoint interpreters or intermediaries, or use audio-video links, such accommodations are provided only on a discretionary basis and are not triggered through a systematic individual assessment that considers all relevant

[221] LBI-GMR, National Report Austria (2025), p. 8.
[222] *Ibid,* p. 16.
[223] *Ibid,* p. 17.
[224] *Ibid.*
[225] *Ibid,* p. 24.
[226] For example, Criminal Procedure Code (Romania), arts. 93, 111.
[227] TdH, National Report Romania (2025), p. 3.
[228] TdH, National Report Romania (2025), p. 8.
[229] *Ibid.*
[230] *Ibid.*
[231] TdH, National Report Romania (2025) p. 9.
[232] CRiC, National Report Serbia (2025) p. 26.
[233] *Ibid.*
[234] *Ibid.*
[235] *Ibid,* p. 35.

factors, including disability, gender, language or ethnicity, family context, and socio-economic situation.[236]

Although the Domestic Violence Law requires the development of individual protection and support plans focusing on victim safety, prevention of further violence, and psychosocial recovery,[237] gender-related and other intersectional barriers continue to limit effective access to support.[238] Girls with disabilities face heightened risks of sexual and domestic violence but limited trauma-informed safeguards; boys with disabilities are often subject to stereotypes that downplay or deny their victimization; and children with diverse gender identities encounter additional bias and privacy risks.[239] There is no mechanism for systematically monitoring whether recommended accommodations are implemented or remain effective across different procedural stages.[240]

Overall, the absence of mandatory, early and disability-inclusive individual assessment mechanisms constitutes a major structural gap across all three countries. While **Austria, Romania,** and **Serbia** formally permit procedural accommodations, identification of needs is largely reactive and dependent on the discretion of individual professionals, diagnostic labels or expert involvement. This approach disproportionately disadvantages children with invisible disabilities and those facing intersecting forms of discrimination.

To address the absence of early, systematic and disability-inclusive individual assessments, States should ensure that every child victim or witness is subject to a mandatory, timely and holistic assessment from the first point of contact with competent authorities. Such assessments should be grounded in a rights-based approach aimed at the elimination of barriers to access to justice and the provision of support to enable full and meaningful participation on an equal basis. This is in contrast with a medicalized, diagnosis driven approach aimed at determining capacity and/or resulting in exclusion. Assessments should identify the child's communication needs, support requirements, risks of secondary victimization and preferred modes of participation. Assessments should take into account intersectional factors, including gender, language, ethnicity, socio-economic situation and care arrangements, and should result in a clear, adaptable accommodation plan that is reviewed and updated throughout proceedings. Effective coordination and monitoring mechanisms are necessary to ensure that assessment outcomes are consistently translated into appropriate procedural accommodations at all stages of the justice process by all justice actors.

2.2.3. Independent intermediaries (or facilitators)

Across **Austria, Romania** and **Serbia**, child victims may be assisted during criminal proceedings by professionals of varying competencies who, in practice, perform intermediary or facilitation functions, including psychologists, social workers, victim support staff, interpreters and legal representatives. However, the law in none of the three countries provides for a clearly defined, independent intermediary model specifically designed to facilitate communication and participation of children with disabilities, in accordance with international child justice and disability-rights standards. Instead, intermediary-type support is fragmented, role-confused and largely dependent on discretion, availability and individual initiative.

In **Austria**, support for children and young people with disabilities in the justice context remains limited, fragmented and largely reactive.[241] The central forms of support identified include psychosocial and legal court assistance ("Prozessbegleitung") and Juvenile Court Assistance (Jugendgerichtshilfe), as well as in certain civil court proceedings – children's advisors ("Kinderbeistände").[242] While these mechanisms may provide support, such as emotional, legal, or social support, none of them is specifically designed to address the communication and participation

[236] CRiC, National Report Serbia (2025) p. 36.
[237] Law on Prevention of Domestic Violence (Serbia), Official Gazette of the Republic of Serbia, No. 94/2016 (Prevention of Domestic Violence Law), art. 31.
[238] CRiC, National Report Serbia (2025), p. 36.
[239] *Ibid.*
[240] *Ibid*, p. 26.
[241] LBI-GMR, National Report Austria (2025), p. 18.
[242] *Ibid.*

needs of children with disabilities, and their effectiveness depends heavily on the individual commitment and awareness of professionals involved.[243]

For child victims in criminal proceedings, the most relevant mechanism is the system of legal and psychosocial court assistance ("Prozessbegleitung").[244] Psychosocial court assistance is provided by staff of specialized counselling centres and aims to support victims in coping with the emotional impact of criminal proceedings.[245] It includes preparation for and accompaniment during police reporting, questioning and hearings, provision of general information about the procedure, and coordination with other actors involved in the child's situation, such as child and youth welfare services, hospitals or schools.[246] While this system plays an important supportive role, it is not specifically designed as an intermediary service for children with disabilities, and therefore does not include explicit requirements regarding disability-specific communication support or facilitation.[247]

Juvenile Court Assistance ("Jugendgerichtshilfe") plays an important role in proceedings involving child and young offenders, supporting identification of personal and social needs and facilitating communication with the justice system.[248] However, no comparable intermediary mechanism exists for child victims. Even in case of offenders, despite the existence of this assistance mechanism, disability-related needs are not systematically identified at an early stage, and accommodations are not consistently integrated into procedural decision-making.[249]

Children's advisors ("Kinderbeistände") constitute a separate support mechanism. They are limited to family court proceedings, particularly in cases concerning custody and contact rights.[250] They are trained professionals with experience in working with children in difficult family situations, and their task is to convey the child's views and interests to the court.[251] Such advisors are expected to build a relationship of trust, explain proceedings in a child-appropriate manner, and accompany the child if requested.[252] Although the service is governed by quality standards and qualification requirements, it does not extend to criminal proceedings and does not include specific expertise or guidance on working with children with disabilities.[253]

In **Romania**, children are most commonly accompanied by psychologists or social workers during legal proceedings, particularly in cases involving abuse or violence.[254] In some instances, specialized professionals, such as trained psychologists, counsellors or interpreters, are involved, often through child protection authorities or civil society organizations, and these services are generally provided free of charge.[255] Lawyers frequently assume a de facto intermediary role by mediating communication and safeguarding the child's interests, partly because other professionals may defer to judicial authority due to limited procedural knowledge.[256] This may in practice be problematic, as it conflates the distinct roles of legal representation and communication support, which serve different and complementary functions within child-centred justice systems, and assumes that lawyers possess the specialised communication competence required to fulfil the intermediary role.

However, coverage is uneven, and systemic shortages of accredited intermediaries and interpreters significantly limit access, especially outside major urban centres.[257] Where professional intermediaries are unavailable, courts and practitioners resort to improvised solutions, such as

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[243] LBI-GMR, National Report Austria (2025), p. 18.
[244] Criminal Procedure Code (Austria), section 66b.
[245] LBI-GMR, National Report Austria (2025), p. 9.
[246] *Ibid.*
[247] *Ibid,* p. 11.
[248] Federal Ministry of Justice, *Juvenile Court Assistance Service* (accessed 10 February 2026).
[249] LBI-GMR, National Report Austria (2025), p. 18.
[250] LBI-GMR, National Report Austria (2025), p. 10.
[251] *Ibid.*
[252] Non-Contentious Proceedings Act (Austria), section 104a(2); LBI-GMR, National Report Austria (2025), p. 11.
[253] LBI-GMR, National Report Austria (2025), p. 11.
[254] TdH, National Report Romania (2025), p. 12.
[255] *Ibid.*
[256] *Ibid.*
[257] *Ibid.*

written communication, gestures or drawings, or rely on non-accredited volunteers or family members.[258]

In **Serbia**, legislation provides a partial framework for intermediary support in criminal proceedings involving children with disabilities. Under the Criminal Procedure Code and the Child Justice Law, children may in principle be assisted during interviews and hearings by child protection specialists, court-based victim and witness support staff, court psychologists, or interpreters.[259] In practice, however, such support is not routinely available from the first point of contact with authorities and is often introduced only after proceedings have commenced, frequently after the child has been formally designated as a "particularly sensitive witness."[260]

In practice, psychosocial support provided by child protection specialists functions is applied on an *ad hoc* basis. This practice was developed through an EU-funded pilot project (2014-2017) that established four regional units to assists children by providing supports such as preparation of the child and parents, guidance during hearings, continuous support throughout proceedings and structured post-proceedings assistance.[261] However, this role is weakly regulated and inconsistently applied.

For children with communication difficulties or disabilities, prosecutors or judges may appoint court experts,[262] most commonly psychologists, who are tasked with assessing the child's ability to testify and to advise on necessary accommodations that could be provided to ensure a child's participation.[263] Court expert witnesses must be certified and registered with the Ministry of Justice, ensuring compliance with professional and ethical standards.[264] These experts may, for example, support child-sensitive questioning; assess trauma and cognitive development; and provide expert opinions.[265] Interpreters, including sign-language interpreters, may also be appointed,[266] however this practice is applied on an ad hoc basis and is not systematically guaranteed from the outset.[267] Where intermediaries or other support persons are appointed by the court or prosecution, their services are provided free of charge.

In **all three countries**, some supports are available, at least in principle. Nonetheless, full and effective support from intermediaries and other necessary support persons for children with disabilities is neither systematically defined nor consistently guaranteed. Existing mechanisms prioritize psychosocial support, expert assessment or interpretation for specific disabilities. There is no comprehensive, independent facilitation function aimed at and capable of enabling communication, understanding and participation of children with disabilities on an equal basis throughout legal proceedings and processes. As a result, children with disabilities remain heavily dependent on discretionary decisions, localized availability of resources, civil society support, and individual professional commitment. This leaves significant gaps between formal safeguards and effective participation in practice.

To address fragmented and discretionary provision of support, States should establish a clearly defined, independent intermediary or facilitation role for child victims with disabilities in criminal proceedings. This position should be distinct from psychosocial support, expert assessment and legal representation, and should focus on facilitating communication and effective participation at all stages of the process. Intermediaries should be available from the first point of contact with authorities, operate independently from investigative and adjudicative functions, and possess specialized competence in disability-inclusive, child-friendly and trauma-informed communication.

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[258] TdH, National Report Romania (2025), p. 13.
[259] Criminal Procedure Code (Serbia), art. 104(1); Child Justice Law (Serbia), art. 152(1).
[260] CRiC, National Report Serbia (2025), p. 29.
[261] Information regarding the situation in Serbia was provided by the national project partner, Child Rights Centre.
[262] Criminal Procedure Code (Serbia), arts. 113-123.
[263] CRiC, National Report Serbia (2025), p. 29.
[264] Law on Court Expert Witnesses (Serbia), Official Gazette of the Republic of Serbia, No. 44/2010.
[265] CRiC, National Report Serbia (2025), p. 29.
[266] Criminal Procedure Code (Serbia), art. 87.
[267] CRiC, National Report Serbia (2025), p. 29.

Access to intermediary support should be based on the child's individual needs rather than on any formal status, diagnosis or discretionary decision. Such support should be integrated into a coordinated system of procedural accommodations to ensure continuity, consistency and respect for the child's rights.

2.2.4. Right to be accompanied by a support person

Across **Austria, Romania** and **Serbia**, children are, in principle, recognized as having the right to be accompanied by a support person during judicial proceedings. In practice, however, this role is not clearly defined, systematically integrated, or consistently applied within any of the three systems. Instead, elements of support may be provided by different actors, such as psychosocial assistants, social workers, psychologists, lawyers or child protection professionals, depending on the case and institutional setting. These arrangements are fragmented and largely provided on an ad hoc basis, rather than forming part of a coherent framework that assigns responsibility for ensuring continuous, disability-sensitive support.

Children are rarely informed that they may choose their support person, and some report that assigned support persons appeared more aligned with institutional priorities than with the child's individual needs, undermining the effectiveness of support.

In **Austria,** children have the right to be accompanied by a support person where one is available.[268] However, there is no formal system that guarantees this right or establishes a dedicated support role for children with disabilities. Existing roles, such as psychosocial court assistants, or children's counsellors,[269] may provide elements of emotional support, guidance, or procedural assistance, but they are not specifically designed or coordinated to ensure consistent, rights-compliant, support for children with disabilities. A further structural concern relates to the transition from child- to adult-oriented support services. While social work support is generally available until the age of 18, and transitional services may be provided for care leavers up to the age of 21, no structured support is available thereafter.[270] This creates a significant gap in continuity of care. As a result, young adults with disabilities are more frequently placed under adult representation arrangements (Erwachsenenschutzvertretung) or integrated into segregated sheltered workshops.[271] In many cases, however, with continued and appropriate individual social and psychosocial support, these young adults could maintain a more autonomous and self-determined life.[272]

In **Romania**, legislation guarantees victims the right to be accompanied by a person of their choice from the first contact with authorities.[273] This represents a clearer legal recognition of the right than in Austria or Serbia. In practice, however, support is often formal and episodic, typically provided by psychologists, social workers or lawyers appointed *ex officio*.[274] As in Austria, the absence of

[268] LBI-GMR, National Report Austria (2025), p. 18; see section 37 of the Juvenile Court Act (Austria).
[269] See more in sections 2.2.1 to 2.2.4 of this report.
[270] LBI-GMR, National Report Austria (2025), p. 19.
[271] "The term 'sheltered workshops' refers to sheltered employment in an enterprise, or a unit of a larger organisation. It operates either in the for-profit or not-for-profit market, with or without public support, and established specifically for the employment of individuals with officially recognised disability. A sheltered workshop may employ persons without disabilities in a (very) limited proportion, but mainly in positions for management and support functions which are not open to the core target group. Sheltered employment is organised around certain specific activities that persons with disabilities are deemed to be able to carry out. Importantly, workers with disabilities placed in sheltered workshops do not have regular employment contracts. Sheltered workshops do not effectively promote transition to the open labour market, as reflected in very low transition rates." European Commission. 2025. *Study on alternative employment models for persons with disabilities: Set-up, working conditions and pathways to the open labour market in inclusive enterprises and sheltered workshops*, p. 14.
[272] Information regarding the situation in Austria was provided by the national project partner, the Ludwig Boltzmann Institute of Fundamental and Human Rights (LBI-GMR).
[273] Law No. 211/2004 of 27 May 2004, on some measures to ensure information, support and protection of victims of crimes, Official Gazette no. 505 of 4 June 2004 and subsequent amendments (Romania), art. 4(6).
[274] TdH, National Report Romania (2025) p. 6.

disability-specific guidance limits the effectiveness of such accompaniment for children with disabilities.

In **Serbia**, the right to be accompanied by a support person is also recognized in practice,[275] but is neither systematically communicated to children and caregivers nor consistently implemented.[276] Information explaining this right, particularly in formats accessible to children with disabilities, as well as the corresponding responsibilities of support persons, is rarely available.[277]

The presence of a support person is largely subject to judicial or prosecutorial discretion. For example, where concerns arise regarding conflicts of interest of support persons or their potential influence on testimony, there is no clear or uniform rule guiding determinations on whether to admit the support person.[278] While there is no evidence suggesting that children are being formally pressured to accept support from a particular individual, in practice the child's views are not consistently sought, documented, or reflected in decision-making, and proceedings may continue without an informed and recorded choice even if a child may have such reservations.[279]

While **all three countries** recognise the importance of accompaniment, none has established a comprehensive, rights compliant and disability-responsive system that ensures children with disabilities are consistently informed of their rights, supported in exercising choice, and accompanied by a person equipped to meet their specific needs.

To address the fragmented and discretionary nature of accompaniment, States should ensure that the right of children with disabilities to be accompanied by a support person is clearly defined in law and practice and implemented as a substantive procedural right rather than as an informal or optional measure. The role of the support person should be clearly distinguished from investigative, legal or expert functions and oriented towards providing continuous, child-centred and disability-sensitive support throughout proceedings. Children should be informed, in an accessible and understandable manner, of their right to be accompanied and supported and to express their preference regarding who the supporting person should be, with due weight given to their views. Access to accompaniment should not depend on discretion of individual professionals, age thresholds or institutional availability. Continuity of support should be ensured across all procedural stages, including transitions from child-specific legal, social, and support services to adult-oriented equivalents, in order to safeguard children's effective participation, rights and wellbeing.

2.2.5. Procedural adjustments and modifications

Procedural adjustments and modifications may be essential to ensuring that children with disabilities can participate effectively in judicial proceedings on an equal basis with others. While the law in **Austria, Romania** and **Serbia**, generally recognizes the need for child-sensitive procedures, the extent to which these safeguards are translated into consistent, disability-inclusive practice varies considerably. Across all three systems, the gap between formal procedural guarantees and their practical application remains a central challenge, particularly for children with intellectual and/or psychosocial disabilities and children with sensory disabilities.

In **Austria**, the Criminal Procedure Code establishes a broad range of procedural safeguards for victims of crime, including hearings conducted with particular sensitivity, the exclusion of the public from hearings, and the presence of a person of trust at hearings.[280] These safeguards apply to children in general and, in principle, also extend to children with disabilities.

In practice, however, the implementation of procedural adjustments is often shaped by a strong emphasis on expediency. While expeditious proceedings aim to reduce the overall burden on

[275] Child Justice Law (Serbia), arts. 54, 60. This is only explicitly recognized for child offenders and is then applied by analogy to child victims.
[276] CRiC, National Report Serbia (2025), p. 30.
[277] *Ibid.*
[278] *Ibid.*
[279] *Ibid.*
[280] Criminal Procedure Code (Austria), section 66a(2).

children, this approach can conflict with the needs of children with disabilities, who may require additional time, breaks and preparatory explanations.[281] Individual communication needs are therefore not consistently prioritized.

The availability of suitable rooms, sufficient time and adapted communication remains uneven. While some positive practices have been noted, including the use of video links, protected interview settings and separate hearings in calmer environments, these measures depend largely on localized availability of resources and judicial initiative rather than on a uniform, disability-sensitive framework.[282]

In **Romania**, the law provides for a range of procedural adaptations, including private hearings[283] and audio-visual recording,[284] separate hearing rooms, simplified language,[285] interpreters and the use of visual aids.[286] Remote hearings are also possible where a child cannot physically attend due to health or institutional placement.[287]

Despite this legal basis, implementation remains inconsistent. Coordination between justice actors, child protection services and health services is limited, and procedural adaptations are not applied systematically throughout the process.[288] Physical attendance is frequently prioritized even for children with significant disabilities.[289] Material supports such as simplified language boards, electronic devices or communication applications are often unavailable, and recommendations for procedural adjustments are not consistently followed.[290]

In **Serbia**, legislation provides for a wide range of procedural safeguards intended to protect children in criminal proceedings, including exclusion of the public from hearings;[291] the principle of urgency;[292] supported interviews with trained professionals;[293] limits on the number of interviews;[294] prohibition of confrontation with the accused;[295] and the use of audio-video questioning or off-site interviews.[296] However, as in Austria, disability-specific procedural accommodations are not explicitly addressed in the legal framework.[297] While the law recognizes the use of interpreters, translators and expert support, these measures are largely confined to sensory disabilities with no systematic provision for children with intellectual and/or psychosocial disabilities.[298]

Procedural adjustments are not embedded in a framework that guarantees continuity across all stages of proceedings.[299] Their application is largely discretionary, meaning that accommodations are neither automatic nor consistently ensured from first contact through to trial.[300] Certain measures, such as audio-video questioning, are typically triggered only once a child has been designated as a "particularly sensitive witness," a status that is discretionary and not mandatory for all child victims or witnesses.[301]

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[281] LBI-GMR, National Report Austria (2025), p. 20.
[282] *Ibid,* p. 21.
[283] Criminal Procedure Code (Romania), art. 352 (3).
[284] *Ibid,* art. 111 (4).
[285] Law No. 211/2004 of 27 May 2004, on some measures to ensure information, support and protection of victims of crimes, Official Gazette no. 505 of 4 June 2004 and subsequent amendments (Romania), art. 4(2).
[286] TdH, National Report Romania (2025), pp. 3, 9.
[287] *Ibid,* p. 9.
[288] *Ibid,* p. 4.
[289] *Ibid,* p. 9.
[290] TdH, National Report Romania (2025), p. 9.
[291] Criminal Procedure Code (Serbia), art. 363.
[292] Child Justice Law (Serbia), art. 157.
[293] *Ibid,* art. 152(1).
[294] *Ibid,* art. 152(2).
[295] Child Justice Law (Serbia), art. 153.
[296] *Ibid,* arts. 152(3)-(5).
[297] CRiC, National Report Serbia (2025), p. 21.
[298] *Ibid.*
[299] *Ibid.*
[300] *Ibid.* pp. 21, 29.
[301] *Ibid.* p. 29.

Although the law allows interviews to be conducted via audio-video link, at the child's home or in an authorized institution,[302] these options are rarely used in practice. Questioning continues to take place predominantly in courts or prosecution offices, with only a limited number of judges conducting interviews in locations chosen by the child, and prosecutors reportedly not using this option at all.[303] Decisions on interview venues remain largely within the discretion of judges and prosecutors, while child protection services report that children's preferences are taken into account only "when conditions allow."[304] As a result, protective measures tend to focus on logistical arrangements, such as separate entrances or temporary removal of the accused, rather than on comprehensive and substantive adaptation of proceedings to the child's needs.[305]

Implementation challenges further weaken these safeguards. Despite legal limits on the number of interviews, inconsistent use of recorded forensic interviews means that children may still be questioned repeatedly in court.[306] More broadly, proceedings involving child victims and witnesses remain lengthy and insufficiently child-, disability- and gender-sensitive, and professionals do not routinely prepare children for participation in judicial processes.[307]

Across **all three countries**, procedural adjustment regimes rely heavily on general child-protection safeguards and the discretion of individual justice actors, rather than on clearly defined, disability-specific accommodation frameworks. Although legal bases for adapting proceedings exist, they are not consistently operationalized, monitored or maintained across procedural stages. As a result, children with disabilities continue to face increased risks of inadequate participation, repeated questioning and insufficiently adapted procedures.

To address the gap between formal safeguards and practice, States should ensure that procedural adjustments and modifications are treated as integral components of fair proceedings for children with disabilities, rather than as exceptional or discretionary measures. Procedural provisions should require early, individualized and disability-inclusive adjustments that prioritize children's communication needs, pace, emotional safety and preferred settings throughout all stages of proceedings. Adjustments should be applied consistently and sustained over time, without being conditional on formal status designations, perceived capacity or institutional convenience. Greater emphasis should be placed on adapting procedures to the child's needs, including through flexible timing, accessible environments and alternative modes of participation, while ensuring effective coordination between justice actors, child protection and support services to prevent repeated questioning and reduce the risk of harm.

3. Right to information and communication in accessible formats

3.1. International law and standards

3.1.1. Right to information and access to it for children and caregivers

The enjoyment of the right to information is a fundamental prerequisite for the effective exercise of procedural rights and for meaningful participation in justice proceedings.

For children, there are some particularized considerations. The child's right to a fair hearing must be not only formal but practical and effective. To this end, children need to be provided with adequate information in an understandable format for the child relating to: 1) the subject matter of the proceedings; 2) the course of the proceedings and their procedural rights in them; and 3) the possible outcomes of the proceedings. Provision of adequate and understandable information is an integral part of the child's participation.[308] As the CRC Committee explained, "[t]he realization of

[302] Child Justice Law (Serbia), arts. 152(3)-(5).
[303] CRiC, National Report Serbia (2025), p. 31.
[304] *Ibid,* p. 33.
[305] *Ibid,* p. 30.
[306] *Ibid,* p. 34.
[307] *Ibid,* p. 22.
[308] CRC Committee, GC No. 12, para 3: the CRC Committee stressed that "a widespread practice has emerged in recent years, which has been broadly conceptualized as "participation", although this term itself does not appear in the text of article 12. This term has evolved and now is widely used to describe ongoing processes,

the right of the child to express her or his views requires that the child be informed about the matters, options and possible decisions to be taken and their consequences by those who are responsible for hearing the child, and by the child's parents or guardian. The child must also be informed about the conditions under which she or he will be asked to express her or his views. This right to information is essential as it is the precondition of the child's clarified decisions."[309]

All the information provided to children should be age-appropriate and adapted to the needs of children. It should be presented in formats, manners and language that children understand.[310] The right to translation is an important element of the right to information. The EU Recommendation on developing and strengthening integrated child protection systems further emphasises that children should receive information about their rights and legal proceedings in easily accessible and child-friendly language, taking into account any special needs.[311]

For children with disabilities, the right to information must be construed in conjunction with the CRPD. The CRPD provides for the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice. States must ensure this right by: "(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost. (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions."[312]

The CRPD further provides that States must promote "appropriate forms of assistance and support to persons with disabilities to ensure their access to information."[313] Persons with disabilities face barriers when attempting to access information and communication due to a lack of Easy-to-Read formats, augmentative and alternative modes of communication".[314]

The International Principles and Guidelines affirm that States should ensure necessary adjustments to guarantee access to information for persons with disabilities, including the enactment of enforceable laws, regulations, policies and guidelines fully recognizing the right to information in all judicial processes, as well as access to information through various methods, such as sign language and audio guides.[315]

The ECOSOC Guidelines relating to child victims and witnesses stress that child victims and witnesses, as well as their parents or guardians and legal representatives, should be promptly and adequately informed, from their first contact with the justice system and throughout proceedings, of key procedural and substantive matters.[316] This includes information on available health, psychological and social services; procedures and roles within the criminal justice process; the manner in which questioning will be conducted; available support mechanisms; the timing and location of hearings; the availability of protective measures; and applicable rights protected under

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which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes."

[309] CRC Committee, GC No. 12, para. 25.

[310] See CRC Committee, GC No. 24, para. 48; European Parliament resolution of 5 April 2022 on the protection of the rights of the child in civil, administrative and family law proceedings (2021/2060(INI)), C 434/11 (2022) para. H; CRC Committee, Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 130/2020, CRC/C/92/D/130/2020 (2023), paras. 8(6)-(7).

[311] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(d).

[312] CRPD, art. 21.

[313] CRPD, art. 9(2)(f).

[314] CRPD Committee, General comment no. 2 (2014), Article 9, Accessibility (CRPD Committee, GC No. 2), CRPD/C/GC/2, 22 May 2014, para. 7.

[315] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), principle 4.

[316] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 19.

the CRC, CRPD and other international instruments. In addition, children must be kept informed of the progress and outcome of the case, including decisions on prosecution, custodial status of the accused and available avenues for reparation.[317]

At the EU level, the right to information for victims is codified in the VRD. Member States must provide victims, from their first contact with a competent authority, with information on their rights, available support services, procedures for submitting complaints, access to protection measures, and possibilities for legal advice and legal aid.[318] Victims must also be informed of their right to receive information on the progress of criminal proceedings relating to the offence.[319]

In addition, child victims must be informed of the services and support mechanisms available before, during and after court proceedings. These include "health, psychological and social services, the role of a child victim, the ways in which `questioning' is conducted, existing support mechanisms in place for the child when submitting complaints and participating in investigations and court proceedings, the specific places and times of hearings, the availability of protective measures, the possibilities of receiving reparation, and the provisions for appeal."[320]

3.1.2. Communication support

Everyone is entitled to understand and be understood in all justice processes and procedures so that effective access to justice is guaranteed for all.[321]

The CRPD defines "communication" so as to include languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and AAC modes, means and formats of communication, including accessible information and communication technology.[322] It also includes spoken and signed languages and other forms of non-spoken languages.[323]

States are required by the CRPD to undertake or promote research and development pertaining to the availability and use of new technologies, including information and communication technologies, mobility aids, devices, and assistive technologies.[324] Such technologies must be suitable for persons with disabilities, with priority given to technologies available at an affordable cost.[325] States must also ensure that persons with disabilities have access to information about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities.[326]

States must take appropriate measures to ensure that persons with disabilities enjoy access, on an equal basis with others, to the physical environment, transportation, information and communications, and other facilities and services open or provided to the public.[327] These measures, include the identification and elimination of obstacles and barriers to accessibility and apply inter alia to: "(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces; (b) Information, communications and other services, including electronic services and emergency services." States are therefore required to identify and remove barriers to accessibility in justice related settings, including courts, police stations, and places of detention.

The CRPD Committee has specified that information and communications technology includes the internet, mobile phones, radio, television, computers and computer equipment and that States have

[317] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 20.
[318] Victims' Rights Directive, art. 4.
[319] *Ibid*, art. 6.
[320] CRC Committee, GC No. 12, para. 64.
[321] ICJ, Model Benchbook on the Rights of Persons with Disabilities in Criminal Proceedings (2024), p. 127.
[322] CRPD, art. 2.
[323] *Ibid.*
[324] CRPD, art. 4(g).
[325] *Ibid*, art. 4(g).
[326] *Ibid,* art. 4(h).
[327] *Ibid,* art. 9.

a duty to ensure that these technologies are accessible to persons with disabilities.[328] The Committee further clarifies that the CRPD requires that public buildings and places should provide support for persons with disabilities, including clear signs in Braille and easy-to-understand formats; and communication and support services, including people who can guide persons with disabilities around the building or communicate in sign language.[329]

All justice systems must provide the technical and other support necessary for victims with disabilities to use the forms of communication required[330] for their full participation, including: (i) assistive listening systems and devices;[331] (ii) open, closed and real-time captioning, and closed caption decoders and devices; and (iii) voice, text and video-based telecommunications products; (iv)videotext displays;[332] (v) screen reader software, magnification software and optical readers;[333] and (vi)video description and secondary auditory programming devices that pick-up audio feeds for television programmes.

The suitability of telephone- and video-conferencing must be assessed on a case-by-case basis.[334] In some situations, such technologies may be unsuitable for persons with disabilities, in others, they may require adaptation of settings and modes of use, and in some cases, their use may significantly enhance the ability of persons with disabilities to participate effectively in legal processes.

In addition to intermediaries and trusted persons discussed above, other forms of assistance may support persons with disabilities in justice proceedings. These may include: (i) note-takers, which may be useful for persons with hearing, psychosocial, and cognitive or learning related disabilities; (ii) qualified sign language and oral interpreters and relay services, relevant for persons with hearing or speech related disabilities; and (iii) tactile interpreters, which may be required for persons with combined hearing and visual impairments.[335]

A further barrier for participation may arise from the language commonly used by justice actors, including judges, legal representatives and court administration.[336] Even where a disability has been identified, assumptions should not be made about an individual's level of understanding; and potential communication barriers must be assessed on an individual basis in each case.

At EU level, Member States must ensure that victims are understood and can understand all communication from the first contact with competent authorities.[337] Such communication must be provided in simple and accessible language, both orally and in writing, taking into account any disability that may affect the victim's ability to understand or to be understood.[338]

3.1.3. Right to interpretation and translation

Everyone is entitled to understand and be understood in all justice processes and procedures so that effective access to justice is guaranteed for all. The right to interpretation is an inherent component of the right to a fair trial or hearing in general international law, guaranteed under human rights treaties, including article 14 ICCPR, article 6 ECHR, article 40 CRC and article 13 CRPD.[339]

As a minimum guarantee, article 14 of the ICCPR provides that everyone shall be entitled "to have the free assistance of an interpreter if [they] cannot understand or speak the language used in

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[328] CRPD Committee, GC No. 2, para 5.
[329] CRPD, art. 9; CRPD Committee, GC No. 2, para 20.
[330] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020), guidelines 3.2(e).
[331] E.g. National Institute on Deafness and Other Communication Disorders, *Assistive Devices for People with Hearing, Voice, Speech, or Language Disorders* (accessed 10 February 2026).
[332] E.g. National Disability Navigator, *Computer Aided Real-Time Transcription (CART)* (accessed 10 February 2026).
[333] E.g. American Foundation for the Blind, *Screen Readers and Screen Magnifiers: An Introduction to Computer Accessibility Software* (accessed 10 February 2026).
[334] ICJ, 2020. *The Courts and COVID-19*, p. 5.
[335] WorldFederation of the Deafblind. *Deafblind Interpretation*.
[336] Judicial College, 2021. Equal Treatment Bench Book, p. 35.
[337] Victims' Rights Directive, art. 3.
[338] *Ibid.*
[339] See ICCPR, art. 14(3)(f); CRPD, art. 13; ECHR, art. 6(3)(e).

court."[340] The ECHR provides for similar guarantees.[341] Persons with disabilities have a right to access interpretation and translation services in order to ensure their effective participation in the justice process. Such interpretation and translation services may be especially important for persons with visual or hearing disabilities.

For children, the right to interpretation and translation has particular significance. The CRC embeds the right to free assistance of an interpreter in criminal proceedings.[342] The CRC Committee has further identified the scope of this right as including "a child who cannot understand or speak the language used in the child justice system ha[ving] the right to the free assistance of an interpreter at all stages of the process. Such interpreters should be trained to work with children".[343]

State parties should provide well-trained professionals to ensure adequate and effective assistance for children who experience communication barriers.[344] The CRC Committee has adopted a wide approach to the right to interpretation, applying it to cover not only children speaking foreign or minority languages, but also children who face barriers in communication due to other reasons. This establishes a basis for all children to be provided with the necessary procedural accommodations to understand legal proceedings and be understood in them.

At the EU level, the right to translation and interpretation is an inherent part of article 47 of the EU Charter, which protects the right to a fair trial. The EU Recommendation on developing and strengthening integrated child protection systems calls on Member States to ensure that children have access to free interpretation and translation services throughout all stages of legal proceedings.[345] In addition, the VRD provides that upon request, interpretation must be provided free of charge where a victim does not understand or speak the language of the criminal proceedings.[346] Free interpretation must be ensured at all stages of the criminal proceedings, including during interviews, hearings and court proceedings. In addition, information necessary to enable victims to exercise their rights under the VRD, must be translated upon request and be provided free of charge.[347]

3.2. Implementation in Practice

3.2.1. Right to information and access to it for children and caregivers

The right to information is a core element of children's effective participation in justice proceedings and is of particular importance for children with disabilities, who may require adapted formats, alternative communication methods and additional time to understand their rights and the process. This right extends not only to children themselves but also to their caregivers, who often play a key role in supporting comprehension and decision-making. Despite these guarantees, in **Austria, Romania and Serbia,** the provision of information in an accessible, child-friendly and disability-inclusive manner remains uneven in practice.

In **Austria,** full access to information and communication for children and young people with disabilities is not regulated through a structured framework. In practice, responsibility for explaining procedures and decisions is often transferred to parents, who provide such support based on their own understanding.[348] While some professionals attempt to adapt explanations or provide follow-up discussions, these efforts depend on personal commitment and comprehension is not systematically verified.[349] The use of accelerated procedures, which place emphasis on expediency rather than on

[340] ICCPR, art. 14(3)(g).
[341] ECHR, art. 6(3)(e).
[342] CRC, art. 40(2)(b)(vi).
[343] CRC Committee, GC No. 24, para. 64.
[344] *Ibid,* para. 65.
[345] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(g).
[346] Victims' Rights Directive, art. 7.
[347] *Ibid.*
[348] LBI-GMR, National Report Austria (2025), p. 19.
[349] *Ibid.*

individual communication needs, may compromise full access.[350] In the absence of assisted communication, visual aids, or simplified language, the capacity of children to understand frequently remains uncertain, and their statements risk being misunderstood or discounted as unreliable.[351]

Communication barriers arise at an early stage, including during initial contact with authorities or when information is requested from police or courts.[352] Children and young persons with intellectual or psychosocial disabilities have limited access to Easy-to-Read materials, which exist only sporadically and are not used consistently.[353] In some cases, justice actors resort to materials designed for very young children due to the absence of appropriate formats for adolescents with disabilities.[354]

In **Romania**, while legislation permits child-friendly measures, there is in practice little concrete guidance on adapting language, communication methods or pacing to the needs of children with cognitive, psychosocial or sensory disabilities.[355] As a result, communication accommodations are applied on an ad hoc basis and depend largely on individual professional initiative.

Deaf children and their families in particular may receive fragmented or minimal information and often rely on informal or peer networks to learn about their rights. Even when information is provided, explanations are frequently rushed and difficult to follow, further limiting meaningful participation in proceedings.

In practice, there is wide variation in how children and their parents are informed about rights and judicial procedures.[356] Information is typically provided verbally and in writing, and in some cases simplified or pictorial materials are used.[357] Occasionally, explanations are adapted to a child's age, disability or gender-related sensitivities, and deaf children may receive information in sign language or simplified written formats. However, these practices are inconsistent and not systematically applied.[358]

Legal rights are often communicated in highly technical language, frequently by reading them aloud, which may not ensure genuine understanding.[359]

In **Serbia**, the right to information for children, particularly those with disabilities, is inconsistently implemented and largely unregulated.[360] Standardized child- and parent-friendly materials are generally unavailable. Although donor-funded brochures and leaflets exist, they are rarely updated, systematically distributed, or adapted to the needs of children with disabilities.[361] Police typically provide basic verbal and written information to child victims and caregivers at the regional level, but this practice often does not extend to later stages of proceedings.[362] Prosecutors and judges report that children and parents are typically informed only shortly before hearings, and that this responsibility is often delegated to Centres for Social Welfare, victim support staff or judicial assistants.[363] These professionals may not always have received specialized training in child-friendly or disability-inclusive communication.

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[350] LBI-GMR, National Report Austria (2025), p. 20.
[351] *Ibid*, p. 25.
[352] *Ibid,* p. 19.
[353] *Ibid.*
[354] *Ibid.*
[355] TdH, National Report Romania (2025), p. 3.
[356] *Ibid,* p. 6.
[357] *Ibid.*
[358] *Ibid.*
[359] TdH, National Report Romania (2025), p. 6.
[360] CRiC, National Report Serbia (2025), p. 24.
[361] *Ibid.*
[362] *Ibid.*
[363] *Ibid.*

At the same time, Serbia has several national helplines offering support to victims of violence, including information on rights and available services, as well as emotional, legal and psychosocial assistance, and referrals.[364] While these services have the potential to enhance access to information, they remain non-standardized and unlicensed due to the absence of a legislative framework regulating victim support helplines,[365] limiting their consistency, accessibility and reliability for children, including those with disabilities.

Across the three countries, access to information for children and caregivers remains unevenly implemented and insufficiently adapted to the needs of children with disabilities. While isolated good practices exist, such as simplified materials, tailored explanations or specialized support services, these measures are not embedded in coherent, enforceable law and rely largely on individual initiative. Information is frequently delivered in technical language, under time pressure, and without systematic verification of understanding, undermining children's ability to participate meaningfully in proceedings. The absence of standardized, disability-inclusive materials, clear professional guidance and consistent support mechanisms leaves many children dependent on parents or informal networks to understand their rights.

To address persistent barriers to understanding and meaningful participation of children with disabilities, States should ensure that the right to information for children with disabilities and their caregivers is implemented through accessible, child-friendly and disability-inclusive communication from the earliest point of contact with the justice system and throughout proceedings. Information should be provided in formats and languages that respond to individual communication needs, with sufficient time and support to ensure comprehension rather than just formal compliance. Responsibility for providing clear, adapted and verifiable information should be located within justice institutions, rather than relying primarily on parents or informal intermediaries.

3.2.2. Communication support

Effective communication support is a precondition for children's full and meaningful participation in justice proceedings. **Across Austria, Romania,** and **Serbia**, the law provides for certain forms of communication assistance, most notably sign language interpretation for persons with hearing disabilities. In practice, however, communication support for children with disabilities remains uneven, weakly formalized and highly dependent on individual professionals. In all three systems, assisted and alternative communication methods are not systematically integrated into procedures, and children with intellectual and/or psychosocial disabilities face significant barriers.

In **Austria**, communication support for children with disabilities is generally constrained by the lack of formal recognition of assisted and alternative communication methods within criminal justice procedures.[366] As a result, court documents, procedural steps and questioning often remain difficult to understand. Easy-to-read, visual or alternative communication formats for children with intellectual or psychosocial disabilities are largely unavailable.[367] While sign language interpretation and certain enhanced communication support formally exist in law,[368] their availability in practice is rare and inconsistent.[369]

Questioning techniques frequently fail to account for assisted communication needs, resulting in misunderstandings or inaccurate assessments of child's statements. Even where caregivers or support persons are able to interpret a child's communication, these statements are not always recognized as valid or reliable evidence.

[364] CRiC, National Report Serbia (2025), p. 25.
[365] *Ibid.*
[366] LBI-GMR, National Report Austria (2025), p. 20.
[367] *Ibid,* p. 25.
[368] Criminal Procedure Code (Austria), section 56(7).
[369] LBI-GMR, National Report Austria (2025), p. 25.

In practice, children continue to rely heavily on parents or caregivers to communicate on their behalf during interactions with authorities and court proceedings.[370]

Romania has a comparatively more developed legal framework recognizing the right to interpretation and mediated communication where a person cannot understand or express themselves adequately.[371] In exceptional circumstances, hearings may proceed with any person capable of communicating with the child, provided that the hearing is later repeated with an authorized interpreter. Despite these laws, accessible communication materials for children with disabilities remain scarce and unevenly distributed.[372]

At the same time, adapted communication techniques are more frequently used in practice, particularly through the involvement of psychologists and social workers.[373] These professionals employ simplified explanations, repeated discussions, verification questions and, in some cases, tools such as drawings or play-based methods or anatomical dolls to support expression and memory recall.[374] However, consistent verification of understanding is not always ensured, and children with multiple or complex disabilities may still understand only part of the information provided.[375]

In **Serbia,** communication support is similarly constrained by a narrow understanding of accessibility. Although legislation allows for interpreters, translators and expert support,[376] these measures are largely confined to sensory disabilities such as hearing or visual impairments.[377] There is no systematic provision for children with intellectual, psychosocial or communication disabilities, nor a requirement to adapt communication methods to individual needs.[378]

In practice, proceedings rely heavily on standard legal language, with little routine adjustment of vocabulary, sentence structure or questioning techniques to the child's developmental level or disability.[379] Child- and parent-friendly materials are scarce and not systematically provided at different stages of proceedings, and comprehension is rarely assessed in a structured manner.

Across all three countries, communication support for children with disabilities is insufficiently integrated into justice procedures. Assisted, alternative and disability-inclusive communication methods are not systematically integrated or recognised, and the absence of standardized, accessible materials, structured verification of understanding and recognition of diverse communication methods increases the risk of misunderstanding, exclusion and diminished evidentiary value being placed on children's statements. The cumulative effect of these shortcomings is that children's effective participation and protection in judicial proceedings is not fully guaranteed in practice.

To address persistent communication barriers, States should ensure that communication support for children with disabilities is recognized in law as a core procedural safeguard rather than an exceptional measure. Justice systems should formally acknowledge and accept diverse modes of expression, including assisted and alternative communication, and ensure that children are supported to communicate in ways that reflect their individual abilities and preferences. Communication support should be available from the first point of contact and maintained throughout proceedings, with an emphasis on understanding rather than formal compliance. To eliminate reliance on parents or ad hoc adaptations, States should establish disability-inclusive communication practices within institutional procedures to ensure that children's views can be expressed, understood and given due weight on an equal basis with others.

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[370] LBI-GMR, National Report Austria (2025), p. 25.
[371] Criminal Procedure Code (Romania), art. 105.
[372] TdH, National Report Romania (2025), p. 8.
[373] *Ibid,* p. 11.
[374] *Ibid.*
[375] *Ibid.*
[376] Criminal Procedure Code (Serbia), art. 87.
[377] CRiC, National Report Serbia (2025), p. 21.
[378] *Ibid,* p. 26.
[379] *Ibid*, p. 34.

3.2.3. Right to interpretation and translation

In **Austria, Romania** and **Serbia**, the right to interpretation and translation is formally recognized as a procedural guarantee. However, in practice, interpretation and translation remain unevenly available across all three systems, and are often limited to specific stages of proceedings or narrowly defined categories of disability.

In **Austria**, the right to interpretation and translation is formally recognized in law.[380] Victims who do not speak German to a sufficient level are entitled to free interpretation during interviews and hearings, as well as written translation of key procedural documents, including confirmation of the complaint, decisions on the closure of investigations, judgments and penalty orders.[381] For children and victims with hearing disabilities, the law requires the presence of a sign language interpreter.[382] Where necessary, communication may also take place in writing or through other appropriate means.

In practice, however, the availability and continuity of interpretation and translation remain limited. Access to Austrian Sign Language (ÖGS) is provided for by law[383] but their availability is rare and inconsistent in judicial proceedings.[384]

Persistent barriers include the absence of qualified sign language interpreters during pre-trial stages and the lack of a systematic approach to ensuring interpretation throughout proceedings.[385] While video interpretation is potentially available at the Vienna Regional Criminal Court and could serve as a useful accommodation, its practical application appears limited and inconsistent, and no data is available on its regular usage.[386]

In **Romania,** the law provides a comparatively detailed basis for interpretation and translation. The Criminal Procedure Code guarantees the right to a free interpreter whenever a person cannot understand, speak or communicate effectively in Romanian, and includes provision for persons with disabilities, including specifically hearing disabilities.[387] The law permits communication through authorized interpreters, written exchanges, or, in exceptional cases, any person capable of communicating, with the obligation to repeat the hearing later with an authorized interpreter.[388] Disability legislation further obliges public authorities to provide authorized sign language interpreters and interpreters for deaf-blind persons.[389]

Despite this legal framework, implementation gaps are significant. There are no effective enforcement mechanisms or sanctions for failure to provide interpretation, and, as a result, services are often unavailable in practice.[390] Structural challenges include a shortage of accredited interpreters, limited funding, lack of national planning, and uneven availability across geographic regions.[391] Courts outside major urban centres frequently rely on ad hoc solutions such as written communication or gestures, while non-accredited volunteers or family members may substitute for professional interpreters, potentially undermining quality, neutrality and consistency.[392] Information provided to deaf children is often fragmented and insufficiently adapted, limiting understanding of rights and effective participation.[393]

In **Serbia,** legislation partially reflects the right to interpretation and translation by providing for the use of interpreters, translators and expert support in criminal proceedings.[394] However, these

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[380] See European e-Justice Portal, *Austria: My Rights as a Victim of Crime* (accessed 10 February 2026).
[381] *Ibid.*
[382] *Ibid.*
[383] Criminal Procedure Code (Austria), section 56 (7).
[384] LBI-GMR, National Report Austria (2025), pp. 19-20.
[385] *Ibid,* p. 15.
[386] *Ibid,* p. 20.
[387] Criminal Procedure Code (Romania), Law 135/2010, art. 83(f).
[388] *Ibid,* art. 105.
[389] Law 448/2006 on the protection and promotion of the rights of persons with disabilities (Romania), art. 61.
[390] TdH, National Report Romania (2025) p. 7.
[391] *Ibid,* pp. 12, 16.
[392] *Ibid,* p. 13.
[393] *Ibid,* p. 7.
[394] Criminal Procedure Code (Serbia), art. 11; Law on Prevention of Domestic Violence (Serbia), art. 29.

provisions remain narrowly confined to sensory disabilities, and do not extend to children with intellectual, psychosocial or complex communication disabilities.[395]

Under the Criminal Procedure Code, when witnesses have sensory disabilities, their examination must follow specific procedures designed to ensure accessible communication.[396] These include written communication for persons with hearing or speech disabilities and oral presentation or reading aloud of written materials for persons who are blind.[397] Where communication cannot be ensured in this manner, a person capable of communicating with the witness may be appointed as an interpreter.[398] Fees for court-appointed interpreters or experts are treated as procedural costs,[399] while interpretation and intermediary support provided through courts or prosecution services are free of charge for the child.[400]

In practice, interpretation is not systematically guaranteed from the first contact with authorities. At the police stage, interpreters may be appointed at the discretion of prosecutors or judges, but interviewees reported that this usually occurs only after formal proceedings have already been initiated.[401] Similarly, the involvement of sign language interpreters or other forms of interpretation during prosecutorial or judicial stages remains ad hoc rather than automatic.[402] Appointment of interpreters, translators and expert support is mainly confined to sensory disabilities, while no systematic provision exists for children with cognitive or communication disabilities. Also, there are no explicit requirements that interpretation be child-appropriate, trauma-informed or adapted to children with disabilities or alternative communication needs. Thus, accommodations are neither automatic nor guaranteed across procedural stages, and practice remains overly dependent on the discretion and sensitivity of judges and prosecutors. Gaps in implementation are particularly evident for children from minority communities and for those in residential care or street-connected situations, who are more frequently processed without interpretation or translation support.[403]

Across all three countries, the right to interpretation and translation for children with disabilities remains poorly operationalized. Interpretation is not provided as a proactive, child- and disability-sensitive procedural guarantee, but is instead applied reactively, inconsistently and often inadequately. The narrow focus on sensory disabilities, combined with delayed or inconsistent access, significantly limits the eligibility for and effectiveness of interpretation and translation as safeguards for children's rights. Provision depends largely on discretion of individual professionals, geographic location and available resources, rather than on the child's individual communication needs. As a result, children with disabilities remain at heightened risk of misunderstanding proceedings, being excluded from communication, and participating only nominally rather than meaningfully in justice processes.

To address gaps in interpretation and translation, States should ensure that these services are treated as integral procedural guarantees for all children who require them, rather than as exceptional or discretionary measures. Interpretation and translation should be available proactively, from the first point of contact and throughout proceedings, and should respond to children's actual communication needs rather than narrow diagnostic categories. States should move beyond a restrictive focus on sensory disabilities and ensure that interpretation and mediated communication support are accessible to all children with disabilities who require them. Incorporating these safeguards within standard procedures, supported by clear standards and adequate resources, is necessary to ensure that children can understand proceedings, express themselves and participate effectively in justice processes.

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[395] CRiC, National Report Serbia (2025), p. 21.
[396] Criminal Procedure Code (Serbia), art. 87.
[397] CRiC, National Report Serbia (2025), p. 11.
[398] Criminal Procedure Code (Serbia), art. 98.
[399] *Ibid*, art. 61.
[400] CRiC, National Report Serbia (2025), p. 29.
[401] *Ibid,* p. 25.
[402] *Ibid.*
[403] *Ibid*, p. 36.

4. Right of access to a lawyer and to legal aid

4.1. International law and standards

Legal assistance

The right to legal assistance is a fundamental component of the right to a defence and to a fair trial, as affirmed in instruments such as Article 14 of the ICCPR, Article 40 of the CRC, Article 6 of the ECHR, and Article 47 of the EU Charter. The availability of effective legal assistance often determines whether or not a person can fully access the relevant proceedings or participate in them in a meaningful way.[404] Access to legal assistance is both a substantive and a procedural right. According to the EU Charter, "[e]veryone shall have the possibility of being advised, defended and represented."[405]

Within this broader framework, legal assistance is also essential for victims of crime, whose effective participation in criminal proceedings depends on their ability to understand and exercise their procedural rights. Legal assistance for victims must be available from the earliest stages of criminal proceedings and throughout the justice process.[406] Victims must be promptly informed, from first contact with the police or other front-line authorities, of their rights to information, legal aid, assistance and protection, and the means to access such support. Legal assistance must cover all aspects of the victim's involvement in criminal proceedings, including: advice on participation; expression of views and concerns; and access to civil remedies or compensation where applicable.[407] These standards also require that victims' views be presented and considered at appropriate stages, and that effective referral and cooperation mechanisms exist between legal aid providers and victim support services.[408]

Access to legal assistance is particularly significant in the case of children, who face additional barriers in engaging with justice systems due to their age, development, and limited familiarity with legal processes. Article 10 of the ECOSOC Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime on legal assistance provides that a child victim or witness shall be assigned a lawyer by the State free of charge throughout the justice process in several circumstances, including at the child's request, at the request of parents or guardians, at the request of a designated support person, or where a court considers it to be in the best interests of the child.[409]

Lawyers therefore play a crucial role in ensuring respect, protection and access to rights of all persons, including, children. The UN High Commissioner for Human Rights notes that "as children are usually at a disadvantage in engaging with the legal system, whether as a result of inexperience or lack of resources to secure advice and representation, they need access to free or subsidized legal and other appropriate assistance to effectively engage with the legal system. Without such assistance, children will largely be unable to access complex legal systems that are generally designed for adults."[410] A lawyer representing a child should explain to them their rights and the relevant procedures. They should ensure that the child's views are heard and taken into account.[411] Therefore, lawyers need to be specifically informed and trained on children's rights and on working with children more generally.[412] To adapt legal assistance effectively to the needs of child victims, it

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[404] UN Human Rights Committee (HRC), General Comment No. 32, Article 14, Right to equality before courts and tribunals and to fair trial, CCPR/C/GC/32 (HRC, GC No. 32) (2007), para. 10.
[405] CFREU, art. 47.
[406] United Nations Office on Drugs and Crime (UNODC), United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, A/RES/67/187 (UNODC, Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013)), guideline 7.
[407] *Ibid.*
[408] *Ibid.*
[409] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), art. 10.
[410] HRC, Report of the United Nations High Commissioner for Human Rights: Access to Justice for Children, A/HRC/25/35 (2013), para. 40.
[411] European Union Fundamental Rights Agency, 2015. *Guardianship for children deprived of parental care*, p. 38.
[412] CoE, Guidelines on Child-Friendly Justice (2010) p. 16.

is also important that continuity in legal representation is ensured, so that children are not required to repeatedly build trust with multiple lawyers throughout the proceedings.[413]

Legal assistance is also directly relevant for persons with disabilities under the CRPD. The CRPD guarantees the right of persons with disabilities to equality and equal treatment before courts and tribunals and, more generally, in all justice processes and procedures, and requires States to ensure effective access to justice on an equal basis with others.[414] The CRPD Committee has clarified that persons with disabilities should have access to legal representation on an equal basis with others.[415] Where lawyers have appropriate knowledge and experience in representing persons with disabilities, legal representation may constitute a crucial channel for communication and information and a key factor in ensuring effective participation.[416] This role is complementary to, and does not replace, the need for other appropriate support, such as the provision of intermediaries and other support persons. As provided by the VRD, lawyers should receive both general and specialist training to increase their awareness of the needs of victims.[417]

Legal aid

The guarantees of legal assistance for victims, particularly children and persons with disabilities, are closely linked to the broader framework of legal aid. Legal aid must be available to all persons who cannot afford to pay for legal services.[418] Special measures should be adopted to ensure equitable and meaningful access to legal aid for groups with particular needs, including children and persons with disabilities.[419] Such measures must explicitly address their specific circumstances through age-appropriate and disability-sensitive approaches, rather than relying on formally equal but substantively inaccessible systems.

The Council of Europe Guidelines indicate that "children should have access to free legal aid, under the same or more lenient conditions as adults."[420] International standards on legal aid further require that, in all legal aid decisions affecting children, the best interests of the child be a primary consideration, and that legal aid provided to children be prioritized and be accessible, age-appropriate, multidisciplinary, effective and responsive to their specific legal and social needs.[421] Similarly, the EU Recommendation on developing and strengthening integrated child protection systems calls on Member States to ensure that children have access to legal aid throughout all stages of legal proceedings, including free and effective legal counselling and legal representation.[422]

States should adopt laws and policies to ensure that information necessary to defend rights is also accessible to persons with disabilities, and that free and affordable legal aid is provided in all legal matters.[423] As the Special Rapporteur on the independence of judges and lawyers has clarified: "Legal aid is an essential element of a fair, human and efficient system of administration of justice that is based on the rule of law. It is a foundation for the enjoyment of other rights, including the right to a fair trial and the right to an effective remedy, a precondition to exercising such rights and an important safeguard that ensures fundamental fairness and public trust in the administration of justice."[424] States are therefore required to create, fund and implement programmes to provide free

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[413] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005), para. 30(b).
[414] CRPD, art. 13(1).
[415] CRPD Committee, GC No. 1, para. 38.
[416] Validity Foundation, 2022. *Humanising Justice: International report from Voices for Justice: Communicating with Victims of Crime with Disability*, p. 68.
[417] Victims' Rights Directive, art. 25.
[418] HRC, GC No. 32, paras. 10-11.
[419] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020) principle 10.
[420] CoE, Guidelines on Child-Friendly Justice (2010), p.16
[421] UNODC, Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (2013), principle 11.
[422] European Commission, Commission Recommendation (EU) 2024/1238 of 23 April 2024 on developing and strengthening integrated child protection systems in the best interests of the child, C/2024/2680, para. 51(f).
[423] OHCHR, Report on Access to Justice Under Article 13 CRPD, para 63.
[424] HRC, Report of the Special Rapporteur on the independence of judges and lawyers, Gabriela Knaul, A/HRC/23/43, 15 March 2013, para. 86.

legal assistance to persons with disabilities who cannot otherwise afford it.[425] In cases involving persons with disabilities as victims of violence, particular attention must be given to ensuring effective access to legal assistance.[426] The VRD requires Member States to ensure that victims have access to legal aid, in accordance with conditions laid down in national law.[427]

4.2. Implementation in practice

Effective access to a lawyer and to legal aid is a core safeguard for ensuring children's participation in justice proceedings and protecting their rights, particularly for children with disabilities who may face additional communication, cognitive or psychosocial barriers. **While Austria, Romania** and **Serbia** all provide a legal basis for legal representation of child victims, significant gaps persist between formal entitlements and their implementation, especially in relation to automatic access, continuity of representation and disability-sensitive legal support.

In **Austria,** the Criminal Procedure Code provides victims of crime with access to legal court assistance alongside psychosocial court assistance.[428] Legal court assistance is delivered by lawyers specialized in victim representation and is provided free of charge.[429] Unlike psychosocial support, however, legal assistance does not extend to subsequent civil proceedings.

Access to court assistance is limited to specific categories of victims, including victims of violence or sexual offences, certain relatives, victims of specific crimes, and all children under 18 who have witnessed violence.[430] While psychosocial court assistance may be assigned *ex officio* for children under the age of 14 who are victims of sexual offences, the same principle does not apply to legal assistance.[431] This creates a potential barrier for children, particularly children with disabilities, where the availability of legal aid is not clearly communicated or understood.

The Austrian Disability Council has identified persistent implementation gaps in the protection of victims of crime with disabilities, noting that existing safeguards are not consistently applied in practice.[432] Professionals further reported that children generally have less effective legal representation than adults.[433] More broadly, the Austrian legal and policy framework governing legal aid and court assistance does not explicitly address disability or set out how legal representation should be adapted to the specific needs of victims with disabilities, including children.[434] As a result, disability-sensitive legal support is not systematically guaranteed and often depends on the awareness, experience and personal commitment of individual lawyers.

In **Romania**, the law provides for mandatory legal assistance for child victims in certain situations, notably where the child lacks or has limited "mental competence"[435] or is unable to prepare their defence independently.[436] In such cases, courts are required to appoint legal counsel.

In practice, however, access to effective legal representation remains inconsistent. Court-appointed lawyers are often assigned only at the first hearing, limiting preparation, the development of trust and meaningful engagement with the child.[437] The involvement of support persons, including lawyers, is frequently formal and episodic, with limited attention to ensuring the child's

[425] Special Rapporteur on the rights of persons with disabilities, International Principles and Guidelines on Access to Justice for Persons with Disabilities (2020) principle 6.
[426] *Ibid.*
[427] Victims' Rights Directive, art. 13.
[428] Criminal Procedure Code (Austria), section 66b.
[429] LBI-GMR, National Report Austria (2025), p. 9.
[430] Criminal Procedure Code (Austria), section 66b(1).
[431] LBI-GMR, National Report Austria (2025), p. 10.
[432] *Ibid,* p. 8.
[433] *Ibid,* p. 18.
[434] *Ibid,* p. 10.
[435] This formulation is problematic and discriminatory, as it conditions access to legal support on assessments of mental competence, thereby reinforcing outdated and medicalised conceptions of disability and is inconsistent with the CRPD.
[436] Criminal Procedure Code (Romania), arts. 93(4) and (5).
[437] TdH, National Report Romania (2025), p. 6.

understanding of proceedings.[438] Continuity of legal support is not systematically ensured.[439] Particular concerns arise for children with intellectual and/or psychosocial disabilities, for whom interactions may become intrusive or distressing[440] when lawyers lack sufficient time or skills or do not adopt disability-sensitive approaches. Lawyers reportedly often work under significant time pressure, a condition which may compromise the quality and effectiveness of representation.[441]

In **Serbia**, legislation formally guarantees child victims the right to free legal representation.[442] Under the Criminal Procedure Code, a prosecutor or presiding judge is required to appoint a legal representative for victims who have been granted the status of a "particularly sensitive witness", drawing from official bar association lists for *ex officio* defence.[443] In addition, where a child victim does not have a lawyer, the president of the court is required to appoint an attorney with specialized knowledge of children's rights and child protection.[444]

The Law on Free Legal Assistance complements these provisions by defining eligibility for free legal aid for children and persons with disabilities and distinguishing between primary legal aid consisting of general legal information and assistance with forms, and secondary legal aid, comprising legal advice and representation.[445] Primary legal aid may be provided by notaries, mediators and law schools, while secondary legal aid is delivered by attorneys and municipal legal aid services.[446] Victims of domestic violence are also explicitly entitled to legal aid.[447]

In practice, these safeguards are applied inconsistently. There is no guarantee that a lawyer will be appointed from the earliest stage of proceedings or that the same lawyer will accompany the child throughout the process.[448] Instead, multiple lawyers may be appointed at different stages, undermining continuity, trust and the child's best interests.[449]

Police procedures generally proceed without the involvement of a lawyer during initial information-gathering, with prosecutors assuming a central role.[450] While parents or social workers are often involved, this does not substitute the child's right to independent legal counsel from first contact with authorities.[451] Although legislation provides for specialized representation of victims,[452] it does not require disability-inclusive competencies, nor does it adequately address children's rights. Training for lawyers therefore remains basic and insufficiently adapted to the needs of children with disabilities.[453]

Across all three countries, the law recognizes children's right to legal representation and, to varying degrees, access to legal aid. In practice, access is often fragmented, discretionary and insufficiently adapted to children with disabilities. Common challenges include the lack of automatic appointment of lawyers, limited continuity of representation, and the absence of systematic disability-sensitive training for legal professionals. As a result, the protective and rights-vindicating role of legal representation is weakened, and children, particularly those with disabilities, remain at risk of participating in justice proceedings without effective, informed and accessible legal support.

To comply with their international legal obligations, States should ensure that child victims, including children with disabilities, have effective access to a lawyer and to legal aid as a core safeguard of

[438] TdH, National Report Romania (2025), p. 6.
[439] *Ibid,* p. 12.
[440] *Ibid,* p. 6.
[441] *Ibid,* p. 9.
[442] Child Justice Law (Serbia), art. 154.
[443] Criminal Procedure Code (Serbia), art. 103(3).
[444] Child Justice Law (Serbia), art. 154(2).
[445] Law on Free Legal Assistance (Serbia) (Free Legal Assistance Law), Official Gazette of the Republic of Serbia, No. 87/18, arts. 4, 5, 6.
[446] *Ibid.*
[447] Prevention of Domestic Violence Law (Serbia), art. 30.
[448] CRiC, National Report Serbia (2025), p. 27.
[449] *Ibid.*
[450] *Ibid.*
[451] *Ibid,* pp. 27-28.
[452] Child Justice Law (Serbia), art. 150.
[453] CRiC, National Report Serbia (2025), p. 28.

their rights and participation in criminal proceedings. Legal assistance should be available free of charge, automatically where required, and from the earliest point of contact with authorities, without being contingent on a formal request by the child or caregivers. Legal representation should be continuous throughout proceedings, in order to support trust, understanding and the effective expression of the child's views, and should be delivered in an age-appropriate and disability-inclusive manner that responds to the child's individual circumstances and best interests. Legal aid systems should guarantee timely, competent and accessible legal support, supported by appropriate training of lawyers and justice actors on children's rights, disability and procedural accommodations, and by effective coordination with victim support services and other relevant professionals. Ensuring these safeguards in practice is essential to prevent secondary victimization and to enable child victims, particularly those with disabilities, to engage meaningfully in justice processes on an equal basis with others.

5. Accessibility of court facilities, information and services

5.1. International law and standards

According to the CRPD: "'[u]niversal design' means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design" and "shall not exclude assistive devices for particular groups of persons with disabilities where this is needed."[454]

The CRPD further requires States Parties to take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment, transportation, information and communications, and services open or provided to the public, including judicial services.[455] The CRPD Committee has clarified requirements relating to universal design, in particular that: "[p]ersons with disabilities and other users should be able to move in barrier-free streets, enter accessible low-floor vehicles, access information and communication, and enter and move inside universally designed buildings, using technical aids and live assistance where necessary."[456] The UN Human Rights Committee has also clarified that any distinctions regarding access to courts or tribunals that are not based on law and not justified on objective and reasonable grounds are prohibited.[457]

The European Court of Human Rights (ECtHR) has held that where a court is physically inaccessible to the applicant due to a disability resulting in reduced mobility, this inaccessibility may result in a violation of the right of access to a court and consequently of the right to a fair trial.[458] Ensuring accessibility of "the physical environment, transportation, information and communication, and services open to the public" is therefore "a precondition for the effective enjoyment of various civil and political rights by persons with disabilities."[459]

The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime emphasize that justice processes must be adapted to the child's age, maturity and individual circumstances.[460] The Guidelines prescribe that States use child-sensitive procedures, including interview rooms designed for children, interdisciplinary services for child victims integrated in the same location, modified court environments that take child witnesses into consideration, breaks during testimony, hearings scheduled at appropriate times of day, and notification systems ensuring that children attend court only when necessary.[461]

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[454] CRPD, art. 2.
[455] CRPD, arts. 9, 13.
[456] CRPD Committee, GC No. 2, para. 15.
[457] HRC, GC No. 32, para. 9.
[458] *Farcaş v. Romania*, ECtHR, Application No. 32596/04, Judgment of 14 September 2010, para. 48.
[459] CRPD Committee, GC No. 2, para 27.
[460] ECOSOC, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (2005) para. 10.
[461] *Ibid,* para. 10, guideline 30(d).

5.2. Implementation in practice

Across **Austria, Romania,** and **Serbia**, accessibility of court facilities, information and services for children with disabilities remains uneven in practice, despite formal legal obligations and policy commitments. Barriers persist at all stages of proceedings, affecting physical access, communication, the availability of adapted environments, and the use of child-friendly and disability-sensitive procedures.

In **Austria,** there is a persistent gap in access to justice for persons with disabilities, including the insufficient availability of qualified sign-language interpreters for administrative and court proceedings, limited availability of decisions and information in accessible formats, and inadequate accessibility of online hearings.[462] At the procedural level, additional barriers undermine the effective participation of children with disabilities, including the absence of interpreters during pre-trial stages, the lack of suitable hearing rooms, and insufficient time resources to conduct child- and disability-sensitive hearings.[463] These operational shortcomings are compounded by structural weaknesses, notably the absence of systematic data collection on persons with disabilities within the justice system,[464] which limits the evidence-based knowledge about prevalence, needs and effective support measures.

Although barrier-free access to courts and public buildings is provided for in law,[465] implementation varies significantly across regions,[466] reflecting challenges linked to Austria's federal structure and fragmented responsibility for disability policy.[467] While some courts apply positive practices, such as conducting interviews via video link, holding hearings in protected settings, or using adjoining rooms to reduce stress for children, these measures depend largely on local infrastructure and judicial discretion rather than enforceable entitlements.[468] Video interpretation is technically available at the Vienna Regional Criminal Court and represents a potential good practice for improving accessibility.[469] However, its actual use appears to be limited and inconsistent.

Accessibility is further undermined by the lack of standardized procedures, materials and communication formats adapted to children with intellectual and/or psychosocial disabilities.[470] Children and young people with disabilities report very limited availability of accessible information and insufficient guidance on procedural steps in administrative and justice-related processes with legal and court language being largely inaccessible.[471]

In **Romania,** legislation provides a formal legal basis for improving accessibility for persons with disabilities within the justice system. Law No. 448/2006 on the protection and promotion of the rights of persons with disabilities establishes rights related to access to public information, new technologies, and communication support, including the provision of authorized sign language interpreters and interpreters for persons with deafblindness.[472] Despite this framework, access to justice for children with disabilities is constrained by weak cross-sector coordination. Justice actors, child protection services, probation services and health professionals are not consistently connected

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[462] CRPD Committee, Concluding observations on the combined second and third periodic reports of Austria, CRPD/C/AUT/CO/2-3 (CRPD, Concluding Observations on Austria (2023)) (2023), para. 33(a).
[463] LBI-GMR, National Report Austria (2025) p. 21.
[464] CRPD, Concluding Observations on Austria (2023), para. 71.
[465] Structural accessibility in court buildings is based on Section 8(2) of the Federal Disability Equality Act (Austria)(BGStG), which requires federal agencies to draw up roadmaps for removing structural barriers. The corresponding "Justice Roadmap" of the Federal Ministry of Justice provided for gradual implementation with a target date of 2015, which has been continuously pursued since then.
[466] LBI-GMR, National Report Austria (2025), pp. 15, 21.
[467] Austria. 2022. Monitoring-Ausschuss, *Stellungnahme zum Nationalen Aktionsplan Behinderung 2022–2030* (accessed 10 February 2026), p. 23.
[468] LBI-GMR, National Report Austria (2025), p. 22.
[469] *Ibid*, p. 20.
[470] *Ibid*, p. 19.
[471] *Ibid.*
[472] Law No. 448/2006 on the protection and promotion of the rights of persons with disabilities (Romania), art. 61; TdH, National Report Romania (2025), p. 3.

through formal protocols to ensure that necessary procedural accommodations are identified and applied throughout all stages of proceedings.[473]

Accessible information and child-friendly materials remain scarce and unevenly distributed. NGOs and public institutions, including child protection services, have developed counselling services, accessible websites and national helplines. However, these resources are poorly promoted, not systematically integrated into judicial processes and rarely used directly by children.[474]

With regard to physical and technical accessibility, the justice system shows both strengths and gaps. Technical facilities for child interviews exist in some locations, including specialized hearing rooms and options for remote participation through video conferencing.[475] These tools can reduce barriers for children with mobility and other disabilities by limiting travel and exposure to intimidating environments. Interpreter availability has also improved in recent years, supported by increased fees for specialized services.[476]

Nevertheless, accessibility of court buildings and police stations remains inconsistent. Child-friendly rooms and audio-visual interview facilities are unevenly distributed, and children with disabilities may be heard in courtrooms, police stations or social service offices depending on local capacity.[477] While some professionals report physically accessible environments, others highlight the absence of ramps, elevators or specialized equipment, particularly in criminal justice settings.[478] Some hearing spaces are described as intimidating or uncomfortable, resembling interrogation rooms rather than child-sensitive environments.[479]

In **Serbia**, physical accessibility and child-friendly infrastructure within courts and prosecution offices are not ensured consistently. Facilities for child victims and witnesses such as adapted interview rooms, separate waiting areas, or spaces designed to reduce contact with the accused are not systematically available across the justice system.[480] Where such facilities exist, their use is neither routine nor guaranteed and often depends on local resources and individual decision-making, with inconsistent adaptation to the needs of children with disabilities.[481] Protective practices therefore tend to rely on logistical arrangements, such as scheduling separate entrances or adjusting hearing times, rather than on structurally adapting proceedings to the child's needs.[482]

Remote participation is technically possible in some higher-instance courts and prosecution offices, but its application is sporadic.[483] Limited equipment, the absence of standard operating procedures, and insufficient staff training constrain its use. The law provides that interviews may be conducted outside the courtroom, including through audio-video links, at the child's home, or in authorized institutions, with recordings later introduced at trial.[484] In practice, however, the use of such measures remains limited and uneven.

Audio-video questioning is most commonly applied only when a child has been formally designated as a "particularly sensitive witness", a status that is discretionary rather than automatic for all child victims or witnesses.[485] As a result, accessibility measures are not consistently available from the outset and depend largely on prosecutorial or judicial discretion. Even where audio-video equipment

[473] TdH, National Report Romania (2025), p. 4.
[474] *Ibid,* pp. 7-8.
[475] *Ibid,* p. 15.
[476] *Ibid.*
[477] *Ibid,* p. 4.
[478] *Ibid,* p. 14.
[479] *Ibid,* p. 15.
[480] CRiC, National Report Serbia (2025), pp. 29, 33.
[481] *Ibid,* p. 33.
[482] *Ibid.*
[483] *Ibid.*
[484] Child Justice Law (Serbia), arts. 152(3)-(5).
[485] CRiC, National Report Serbia (2025), p. 21.

exists, it is often treated as supplementary to live testimony rather than as a genuine alternative, limiting its effectiveness in preventing repeated and/or intimidating court appearances.[486]

Communication accessibility presents additional challenges. While courts may appoint interpreters or expert facilitators, accessible, child- and parent-friendly information materials are scarce and not systematically provided at each stage of proceedings.[487] Adaptations for children with disabilities, particularly those with cognitive, communication or psychosocial impairments, remain inconsistent, further limiting effective access to justice.[488]

While **all three countries** recognize in law the importance of accessibility, implementation in practice remains fragmented and heavily dependent on discretionary decisions, local infrastructure and individual professional understanding and commitment. The absence of consistent standards and guaranteed access to adapted environments and communication support continues to limit effective participation of children with disabilities in judicial proceedings.

To address persistent accessibility barriers, States should ensure that accessibility of court facilities, information and services is treated as a core component of fair and child-centred justice, rather than as an ancillary measure. Accessibility should be guaranteed across all stages of proceedings through consistent standards covering physical access, communication, adapted environments and the availability of child- and disability-inclusive information. This requires moving beyond isolated good practices towards systemic approaches that incorporate accessibility as a legal entitlement, supported by adequate resources, coordination and monitoring, so that children with disabilities can access justice on an equal basis.

II. CONCLUSIONS

This report has examined access to justice for child victims with disabilities in criminal proceedings, drawing on international law and standards and empirical findings from Austria, Romania and Serbia. Across all thematic areas analysed, including legal capacity and participation, procedural accommodations, access to information and communication, legal representation, and accessibility of justice institutions, a consistent pattern emerges. While the rights of child victims and, to some extent, the specific needs of persons with disabilities, are generally guaranteed in law, implementation in practice remains fragmented, inconsistent and largely dependent on individual professionals rather than on systemic guarantees and established procedures. These gaps are further reinforced by structural fragmentation in service provision, decentralized governance arrangements lacking common national standards, and insufficient coordination between justice actors, child protection and social services.

Under international law, there are clear obligations for States to ensure that children with disabilities can participate effectively in justice processes on an equal basis. This entails early and individualized assessments; provision of procedural accommodations; accessible information; communication supports; interpretation and translation; adequately trained justice actors; and the availability of intermediaries, facilitators and other support persons. However, the national findings demonstrate a persistent gap between these normative obligations and the realities experienced by child victims with disabilities.

Across the three countries, procedural accommodations are rarely embedded as a routine part of criminal proceedings. Individual assessments of children's communication and support needs are often absent, delayed, or informal, resulting in reactive rather than proactive responses. Intermediaries or facilitators, where they exist and are provided for in national legal systems, are not systematically available, lack clear mandates, or are only available in limited categories of cases and at late stages of legal processes. As a result, children with disabilities continue to rely heavily on parents, caregivers or informal support persons, which may compromise their autonomy,

[486] CRiC, National Report Serbia (2025), p. 34.
[487] *Ibid*.
[488] *Ibid.*

confidentiality and effective participation in justice processes. These shortcomings are further compounded by the continued reliance in practice on medical or diagnostic approaches to disability, whereby access to support is often conditioned on formal diagnoses or visible impairments, rather than on the identification and removal of barriers to participation.

Access to information and communication in accessible formats remains among the most significant barriers identified. Legal information is frequently provided in technical language, delivered late in the process, or communicated in a rushed and formalistic manner that does not ensure understanding. Easy-to-Read materials, visual supports, augmentative and alternative communication (AAC), and disability-adapted explanations are sporadically available rather than provided as a standard practice. These shortcomings are particularly pronounced for children with intellectual, psychosocial or complex communication disabilities, whose statements have a higher risk of being misunderstood, discounted or regarded as unreliable.

Similarly, although the right to interpretation and translation is formally recognized in all three jurisdictions, its practical availability is uneven. Sign language interpretation and other forms of mediated communication are often scarce, unavailable at pre-trial stages, or dependent on discretionary decisions by authorities. Shortages of qualified interpreters, insufficient funding, and weak enforcement mechanisms further limit the effectiveness of these safeguards, particularly outside major urban centres and for children from marginalized backgrounds.

The report also identifies structural weaknesses in access to legal assistance and legal aid. Although child victims may be entitled to legal representation, continuity, specialization and disability-inclusive competence are not consistently ensured. Professional training, including for judges, prosecutors, police officers, lawyers and support staff, remains uneven and often fails to adequately address child-friendly, trauma-informed and disability-inclusive practice. In addition, limited multi-professional cooperation between justice actors and child protection and social services further undermines the effectiveness and continuity of support provided to children throughout proceedings.

Overall, the findings point to several overarching priorities. To ensure the effective implementation of international obligations and to bridge the gap between formal safeguards and lived practice, States should:

• **Strengthen the implementation of international standards into operational procedures**, ensuring that obligations under the CRC, CRPD and relevant European and EU frameworks are consistently applied in practice;

• **Promote a shift from medical to rights-based, barrier-free approaches to disability across justice systems**, moving away from diagnosis-driven or capacity-based limitations and focusing instead on the identification and removal of barriers to participation;

• **Ensure that children with disabilities are recognized as having legal capacity on an equal basis with others**, and that their participation is not restricted on the basis of perceived cognitive ability, communication style or disability-related assumptions;

• **Guarantee the right of children with disabilities to be heard in practice**, including through proactive, child-centred and disability-inclusive measures that respect their will and preferences and recognise diverse forms of expression and communication, while explicitly eliminating coercive practices such as forcing testimony or penalising non-participation;

• **Provide for mandatory, early and individualized assessments** of children's communication needs, support requirements and risks of secondary victimization from the first point of contact, ensuring that these assessments are rights-based, holistic and continuously updated throughout proceedings;

• **Ensure the provision of timely, individualized and disability-inclusive procedural accommodations at all stages of the proceedings**, free of charge and automatically triggered once needs are identified;

• **Strengthen supported decision-making approaches and communication support**, including access to AAC communication, Easy-to-Read materials and other accessible formats, ensuring that children's views, whether expressed directly, non-verbally or with support, are not excluded or given diminished evidentiary value;

• **Ensure the availability of trained intermediaries or facilitators**, with clear mandates, independence and accessibility based on the child's needs, to support effective communication and participation throughout proceedings;

• **Guarantee the right to accompaniment by a support person**, ensuring that this right is clearly defined in law and respected in practice, that children are informed of the right and can express their preferences, and that continuity of support is maintained across all stages of the proceedings;

• **Ensure that the right to information for children with disabilities and their caregivers is implemented through accessible, child-friendly and disability-inclusive communication**, provided from the earliest point of contact and throughout the proceedings, in formats that respond to individual needs and ensure understanding rather than formal compliance;

• **Ensure access to interpretation and translation as a standard procedural guarantee**, available from the earliest stages of proceedings and responsive to the full range of communication needs of children with disabilities;

• **Strengthen access to legal assistance and legal aid**, ensuring early, free, continuous and disability-inclusive legal representation, supported by specialized training and effective coordination with other services;

• **Invest in mandatory, continuous and disability-inclusive professional training** for all justice actors, including judges, prosecutors, police officers, lawyers and support staff, with a focus on child-friendly, trauma-informed and rights-based approaches;

• **Strengthen multi-professional cooperation and integrated child protection responses**, ensuring effective coordination between justice, child protection and social services to provide continuous and coherent support;

• **Improve the accessibility of information, services and infrastructure**, ensuring that accessibility is treated as a core component of justice systems and guaranteed across all stages of the proceedings.

Addressing these gaps is essential for Austria, Romania and Serbia to meet their international obligations to ensure access to justice for children with disabilities on an equal basis. Failure to address these challenges will continue to result in secondary victimization of children with disabilities interacting with the justice system, due to the lack of their meaningful, effective and equal participation.

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